

1 BEFORE THE  
2 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD  
3  
4 -0-0-0-  
5  
6  
7 IN THE MATTER OF THE:  
8  
9 REGULAR MONTHLY  
10 BUSINESS MEETING  
11 \_\_\_\_\_/  
12  
13  
14 DATE AND TIME: FEBRUARY 23, 1999  
15 9:30 O'CLOCK A.M.  
16  
17 PLACE: BOARD HEARING ROOM  
18 8800 CAL CENTER DRIVE  
19 SACRAMENTO, CALIFORNIA 95826  
20  
21  
22  
23  
24  
25 REPORTER: DONNA ARCHULETA, CERT NO. 11828

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APPEARANCES

PRESENT WERE:     BOARD MEMBER FRAZEE  
                         BOARD MEMBER JONES  
                         BOARD MEMBER PENNINGTON  
                         BOARD MEMBER ROBERTI  
                         CHAIRMAN EATON

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1 I. CALL TO ORDER

2 CHAIRMAN EATON: -- AND WELCOME TO THE  
3 FEBRUARY 23RD MEETING OF THE CALIFORNIA  
4 INTEGRATED WASTE MANAGEMENT BOARD.

5 II. ROLL CALL AND DECLARATION OF QUORUM

6 CHAIRMAN EATON: MADAM SECRETARY, WOULD  
7 YOU PLEASE CALL THE ROLL?

8 THE SECRETARY: BOARD MEMBERS FRAZEE?

9 MEMBER FRAZEE: HERE.

10 THE SECRETARY: JONES?

11 MEMBER JONES: HERE.

12 THE SECRETARY: PENNINGTON?

13 MEMBER PENNINGTON: HERE.

14 THE SECRETARY: ROBERTI?

15 MEMBER ROBERTI: (NO RESPONSE.)

16 THE SECRETARY: CHAIRMAN EATON?

17 CHAIRMAN EATON: HERE.

18 WITH REGARD TO THE ROLL, MR. ROBERTI  
19 SHOULD BE HERE IN A MOMENT, SO WE'LL GO THROUGH  
20 SOME PRELIMINARY ADMINISTRATIVE KINDS OF MATTERS.  
21 I'LL GIVE HIM SOME TIME TO GET HERE.

22 III. OPENING REMARKS

23 CHAIRMAN EATON: I'LL START ON MY LEFT,  
24 WHICH IS INTERESTING FOR ME, BECAUSE -- SO, MR.  
25 PENNINGTON, ON MY LEFT, ANY *EX PARTES* THIS

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1 MORNING?

2 MEMBER PENNINGTON: YEAH, I HAVE TWO, MR.

3 CHAIRMAN. DONALD WOLF AND HARRY STONE, OF THE

4 LOS ANGELES DEPARTMENT OF PUBLIC WORKS,

5 CONCERNING THE C&D REGS. AND A CONVERSATION WITH

6 GEORGE LARSON CONCERNING LINCOLN TIRES.

7 CHAIRMAN EATON: MR. JONES?

8 MEMBER JONES: MR. CHAIRMAN, SOME LETTERS

9 THAT WE GOT REGARDING SAN DIEGO HOUSEHOLD

10 HAZARDOUS WASTE, ONE FROM ART MADRID -- THEY

11 WEREN'T EVEN ADDRESSED TO ME, BUT JUST TO BE ON

12 THE SAFE SIDE -- ART MADRID FROM THE CITY OF LA

13 MESA, MICKY KEFENYANA (PHON) FROM THE CITY OF

14 POWAY, AND A FAX TO JUDITH FRIEDMAN FROM DWIGHT

15 WARDEN (PHON), WHO IS REPRESENTING THE CITY OF LA

16 MESA. AND THIS IS ON THE COUNTY, I GUESS,

17 PULLING OUT OF THE HOUSEHOLD HAZARDOUS WASTE

18 PROGRAM DOWN THERE. AND MICHAEL BURN ON TIRE

19 PERMITS. AND THAT'S IT.

20 CHAIRMAN EATON: MR. FRAZEE?

21 MEMBER FRAZEE: YES. I MET WITH GEORGE

22 LARSON, REPRESENTING LINCOLN TIRE THIS MORNING.

23 CHAIRMAN EATON: OKAY.

24 MEMBER FRAZEE: THAT'S THE ONLY ONE I

25 HAVE.

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1 CHAIRMAN EATON: OKAY. AND I HAVE A FEW  
2 RIGHT NOW, AS WELL. IN ADDITION TO THE LETTERS  
3 THAT MR. JONES PUT ON THE RECORD, I HAVE FIVE  
4 ADDITIONAL. I HAVE A FAX FROM DWIGHT WARDEN  
5 REGARDING THE COUNTY OF SAN DIEGO AND LA MESA.  
6 AS WELL AS A LETTER FROM JAMES KENNINGER  
7 REGARDING THE TAHEAGUS LANDFILL. AS WELL AS A  
8 LETTER FROM MICKEY KEFENYANA, FROM THE CITY OF  
9 POWAY AS WELL.  
10 FOR THOSE OF YOU WHO HAVEN'T BEEN  
11 HERE BEFORE AND MAY BE IN THE AUDIENCE, THE  
12 PROCESS BY WHICH WE HAVE PEOPLE COME AND SPEAK ON  
13 THE ISSUES, THERE ARE FORMS ON THE BACK TABLE.  
14 IF YOU WISH TO ADDRESS ANY OF THE ITEMS ON THE  
15 AGENDA, WOULD YOU KINDLY PLEASE FILL OUT ONE OF  
16 THE SLIPS ON THE BACK AND BRING THEM FORWARD?  
17 AND I WOULD AS THAT, IN ADDITION TO  
18 PUTTING THE NAME, LIKE "A," "B," "C," COULD YOU  
19 ALSO KINDLY PUT THE AGENDA ITEM? SOME OF YOU  
20 WILL SPEAK ON MORE THAN ONE ISSUE, AND IT WOULD  
21 BE HELPFUL IF WE CAN JUST KIND OF REUSE AND  
22 RECYCLE THOSE SAME SLIPS OF PAPER, AND IT WOULD  
23 BE HELPFUL TO OUR NEW PERSON HERE, LISA  
24 DOMINGUEZ, WHO IS TO MY LEFT, WHO IS TAKING THE  
25 SLIPS.



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1 TODAY OBVIOUSLY STARTS A NEW  
2 BEGINNING, BUT IT'S ALSO AN END. AND I THINK IT  
3 WOULD BE INAPPROPRIATE, AT LEAST FOR ME, TO GO  
4 INTO A DISCUSSION AS TO WHERE I BELIEVE THE BOARD  
5 AND THE PRIORITIES SHALL BE.  
6 GIVEN THE FACT THAT BOB FRAZEE, TO MY  
7 RIGHT, AND ALWAYS TO MY RIGHT, WILL -- AND  
8 PROUDLY, MAY I SAY IT'S HIS LAST DAY. AND I JUST  
9 FELT -- GROWING UP AS I DID, AND IN SOME OF THE  
10 PROFESSIONAL JOBS THAT I'VE HELD -- THAT GIVING  
11 AN INDIVIDUAL WHO HAS GIVEN SO MUCH OF HIMSELF  
12 THAT IT WOULD BE A -- NOT VERY MUCH RESPECT, OR  
13 AFFORDING HIM THE DUE THAT HE SHOULD BE ACCORDED,  
14 BY GOING INTO THINGS ON HIS DAY, THE LAST DAY  
15 HERE.  
16 SO, WITH THAT, I WOULD JUST LIKE TO  
17 SAY ONE OTHER THING, AND THEN I'LL MOVE ON  
18 THROUGH THE AGENDA.  
19 THAT I'D LIKE TO THANK DAN PENNINGTON  
20 AND HIS STAFF, AND MARLENE KELLY, LEW HASTINGS,  
21 AND SUSAN WESTLAKE IN THIS TRANSITION. IT'S BEEN  
22 ROUGH AT TIMES, IT HASN'T ALWAYS BEEN THE  
23 EASIEST, BUT THEY HAVE SHOWN THAT IT CAN WORK.  
24 AND THAT THROUGH THE YEARS THAT DAN WAS CHAIR,  
25 MARLENE HELD THIS POST RIGHT HERE AS WELL AS

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1 ANYONE THAT I'VE EVER SEEN, BOTH IN THE  
2 LEGISLATURE AND WITHOUT. AND I'D JUST LIKE TO  
3 SAY THANK YOU.  
4 WITH THAT IN MIND, AS ANNUAL KINDS OF  
5 THINGS, ON BOB'S LAST DAY WE HAVE A COUPLE OF  
6 MEMENTOS FOR HIM, AND I WOULD LIKE TO -- AT THIS  
7 TIME, IF WE COULD KIND OF STEP TO THE LECTERN?  
8 AND, DAN, SINCE YOU SPENT SO MANY  
9 YEARS WITH BOB, I THINK IT WOULD ALSO BE NICE IF  
10 YOU COULD MAKE THE PRESENTATION ON BEHALF OF THE  
11 BOARD, BECAUSE YOU DID SERVE WITH BOB. AND I  
12 SERVED WITH HIM FOR A YEAR, BUT I THINK IT REALLY  
13 WOULD ONLY BE WELL THAT IF YOU SERVE....

14 MEMBER PENNINGTON: OH, YOU WANT ME TO  
15 COME DOWN?

16 CHAIRMAN EATON: YES, ABSOLUTELY.  
17 LISA, COULD YOU CALL THE ROLL?

18 THE SECRETARY: BOARD MEMBER ROBERTI?

19 MEMBER ROBERTI: HERE.

20 (LAUGHTER AND GENERAL DISCUSSION.)

21 MEMBER PENNINGTON: DO YOU WANT ME TO  
22 START?

23 CHAIRMAN EATON: PLEASE DO.

24 MEMBER PENNINGTON: WELL, BOB, THIS IS  
25 THE END OF OUR ALMOST FOUR-YEAR RELATIONSHIP ON

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1 THIS BOARD, AND I CAN'T BEGIN TO TELL YOU HOW  
2 MUCH HELP YOU HAVE BEEN, AND HOW MUCH GUIDANCE  
3 YOU HAVE BEEN, YOU HAVE ALWAYS BEEN RIGHT ON THE  
4 POINT. AND IT'S CERTAINLY BEEN A PLEASURE TO  
5 SERVE WITH YOU. AND IT'S CERTAINLY A PRIVILEGE  
6 TO BE ABLE TO CALL YOU MY FRIEND.

7 AND, SO WE PREPARED A PLAQUE HERE FOR  
8 YOU. AND I KNOW THAT YOU NEED ANOTHER PLAQUE, WE  
9 HOPE THIS'LL START BOX NUMBER 18. (LAUGHTER.)

10 MEMBER FRAZEE: RIGHT.

11 MEMBER PENNINGTON: I WON'T TAKE THE TIME  
12 TO READ IT ALL, BUT IT MEMORIALIZES YOUR SERVICE  
13 TO THIS BOARD AND TO THE PEOPLE OF THE STATE OF  
14 CALIFORNIA. AND WE CONTINUE TO RESPECT YOUR  
15 GREAT CONTRIBUTION TO THIS BOARD. WE WISH YOU  
16 GOOD LUCK IN YOUR RETIREMENT.

17 MEMBER FRAZEE: YEAH, THANK YOU.

18 MEMBER PENNINGTON: BUT WE'RE GOING TO  
19 TRY TO FIND SOME WAY TO GET YOU BACK.

20 (APPLAUSE.)

21 CHAIRMAN EATON: UNBEKNOWNST TO THE REST  
22 OF YOU -- THOSE OF YOU WHO ARE THE USUAL  
23 SUSPECTS, AND PLEASE DON'T STAND UP, YOU'RE HERE  
24 EVERY MONTH, AND I GREATLY APPRECIATE IT -- YOU  
25 PROBABLY KNOW THROUGH THE TIME THAT BOB FRAZEE

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1 HAS BEEN HERE, AND PERHAPS IN THE LEGISLATURE,  
2 THAT HE HAS ALWAYS BEEN AN INDIVIDUAL WHO HAS  
3 HELD HIS OWN, AND ALWAYS HAD FIRM BELIEFS. HE IS  
4 ALSO A MAN THAT IF YOU MADE A REASONABLE ARGUMENT  
5 TO HIM HE WAS OPEN-MINDED AND LISTENED. WITH THE  
6 EXCEPTION OF PERHAPS, ONE, AND A PHRASE THAT I  
7 HAVE, YOU KNOW, GONE OVER AND OVER IN MY HEAD,  
8 AND THAT'S IN REGARD TO THE RPPC.  
9 SO, BOB, SO THAT YOU'LL NEVER FORGET  
10 THE WORK THAT YOU DID ON THE BOARD WITH DAN AND  
11 STEVE, AND SENATOR ROBERTI, AND OTHERS WHO SERVED  
12 BEFORE US, WESLEY CHESBORO AND JANET GOTCH, AND  
13 OTHERS, I WANT TO PRESENT THIS PLAQUE. AND LET  
14 ME READ IT TO YOU. IT'S WITH AN ACTUAL RPPC AND  
15 YOU, BEING SOMEWHAT OF A HANDYMAN EXTRORDINAIRE -  
16 - TALK ABOUT THE SEVEN-INCH WAX APPLICATOR  
17 BONNETT OR SONNETS --

18 MEMBER FRAZEE: BONNETS.

19 CHAIRMAN EATON: OKAY. WITH BOB'S  
20 FAMOUS SAYING -- WHICH I BELIEVE THAT YOU HAVE  
21 SORT OF TAKEN ON AS YOUR OWN -- THE BEST WAY TO  
22 ELIMINATE AN UNJUST LAW IS TO ENFORCE IT TO ITS  
23 ULTIMATE. (LAUGHTER; APPLAUSE.)  
24 AND IT ALSO SAYS, HAVING DEDICATED  
25 PUBLIC SERVANTS LIKE BOB FRAZEE ENSURES THE

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1 PROTECTION OF THE PUBLIC'S HEALTH AND SAFETY,  
2 BEST WISHES ON YOUR RETIREMENT AND TRAVELS, WE'LL  
3 MISS YOU, YOUR FELLOW BOARD MEMBERS AND CIWMB  
4 STAFF. (APPLAUSE.)

5 MEMBER FRAZEE: THANK YOU.

6 CHAIRMAN EATON: BOB.

7 MEMBER FRAZEE: WELL, THANK YOU VERY  
8 MUCH, GENTLEMEN. FIRST, TO INDICATE THE BIT OF  
9 PLAGIARISM, "THE BEST WAY TO ELIMINATE AN UNJUST  
10 LAW IS TO ENFORCE IT TO ITS ULTIMATE," IS  
11 ACTUALLY A QUOTE FROM ABRAHAM LINCOLN. AND, SO I  
12 FEEL IN GOOD COMPANY, BEING QUOTED ON THAT ONE.  
13 IT'S HARD TO BELIEVE THAT THIS IS THE  
14 CULMINATION OF 50 YEARS OF SERVICE IN BOTH -- 25  
15 YEARS, MORE OR LESS, IN THE PRIVATE SECTOR, AND  
16 25 YEARS IN GOVERNMENT, I HARDLY FEEL THAT OLD,  
17 AND THE YEARS ARE CREEPING UP ON ME, AND THERE  
18 COMES A TIME WHEN THERE ARE BETTER THINGS TO DO  
19 THAN SPENDING MY TIME IN SACRAMENTO. SO, I'M OFF  
20 TO TRAVEL, AND TO DO THOSE 1,001 THINGS AROUND  
21 THE HOUSE THAT HAVE BEEN NEGLECTED FOR THE LAST  
22 20 YEARS THAT WE'VE BEEN IN SACRAMENTO.  
23 WHEN I FIRST CAME ON THIS BOARD I  
24 STOPPED TO REFLECT A BIT ON WHAT THE JOB WAS  
25 HERE, AND I DECIDED THAT IT CONSISTED OF MY TWO

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1 LEAST FAVORITE THINGS. ONE WAS REGULATING  
2 PEOPLE, AND THE OTHER ONE WAS GIVING AWAY  
3 TAXPAYERS' MONEY. AND I'VE SORT OF WARMED TO  
4 THAT CHARGE OVER THE YEARS, AND CERTAINLY SEE A  
5 REASON FOR ALL OF WHAT WE DO AT THIS BOARD.  
6 I WOULD BE REMISS IF I DIDN'T TAKE A  
7 MOMENT TO COMPLIMENT EVERYONE ON THIS FABULOUS  
8 STAFF THAT HAS BEEN ASSEMBLED HERE AT THE BOARD.  
9 THE PROFESSIONALISM OF EVERY ONE OF YOU IS JUST  
10 OUTSTANDING. I HAVE NEVER WORKED WITH A GROUP  
11 THAT'S BEEN SO DEDICATED TO GETTING THE JOB DONE.  
12 AND THE METHOD IN WHICH THIS BOARD  
13 OPERATES WITH COOPERATION WITHIN THE REGULATED  
14 COMMUNITY AND THE BOARD IS ONE THAT I HAVE -- I  
15 THINK I SAID LAST TIME THAT I WAS UP HERE, IS ONE  
16 THAT IS UNMATCHED IN GOVERNMENT, I BELIEVE. THE  
17 NON-ADVERSARIAL WAY IN WHICH BOTH THE PUBLIC AND  
18 THE PRIVATE SECTOR COME TOGETHER TO RESOLVE THE  
19 PROBLEMS OF THE NEED FOR REGULATION IS JUST -- 20 YOU KNOW, IT'S  
BEYOND BELIEF THAT THIS CAN  
21 HAPPEN. AND IT SETS AN EXAMPLE FOR THE REST OF  
22 GOVERNMENT, AND FOR THE REST OF THE PRIVATE  
23 SECTOR.  
24 JUST TO MY FELLOW BOARD MEMBERS, IT'S  
25 BEEN A GREAT PLEASURE TO SERVE WITH ALL OF YOU.

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1 AGAIN, THE PROFESSIONALISM THAT'S SHOWN BY  
2 MEMBERS OF THIS BOARD WHO HAVE, AT TIMES, SET  
3 ASIDE BIASES AND -- IN ORDER TO WORK FOR THE  
4 GREATER GOOD, BUT ALSO HAS STUCK TO THEIR GUNS ON  
5 ISSUES, AND HAVE MADE THIS PLACE A REAL CHALLENGE  
6 FOR GETTING THE PEOPLE'S WORK DONE.  
7 I THINK IT'S -- SOMETIMES IT'S TOO  
8 BAD THAT WE'RE OFF OUT HERE IN THE COUNTRY, AND  
9 NOT DOWNTOWN -- ALTHOUGH, I GUESS THAT WILL BE  
10 REMEDIED IN THE FUTURE -- BUT, DISTANCE PERHAPS  
11 MAKES THE HEART GROW FONDER. AND, BUT I THINK  
12 THAT WE SOMETIMES LOSE THE RECOGNITION FROM THE  
13 REST OF STATE GOVERNMENT OF THE GREAT WORK THAT  
14 GOES ON AT THIS BOARD.  
15 SO AGAIN I WANT TO THANK YOU ONE AND  
16 ALL, STAFF, RALPH, FOR THE GREAT STAFF THAT  
17 YOU'VE ASSEMBLED HERE, AND TO MY FELLOW BOARD  
18 MEMBERS. IT'S BEEN A GREAT EXPERIENCE, AND SO  
19 LONG, I'LL BE SEEING YOU. (EXTENDED APPLAUSE.)  
20 CHAIRMAN EATON: HAVING ESTABLISHED A  
21 QUORUM, I HAVE A COUPLE OF ANNOUNCEMENTS.  
22 FOR THOSE OF YOU WHO MAY OR MAY NOT  
23 HAVE SEEN THE NEW LISTING OF BOARD MEETINGS, OUR  
24 NEXT MEETING WILL BE MARCH 23RD AND 24TH.  
25 AS WELL AS, ON TODAY'S AGENDA, ITEM

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1 24, SUBPART C, INYO COUNTY AND INYO COUNTY  
2 UNINCORPORATED, AS BEEN PULLED FROM TODAY'S  
3 AGENDA. ALSO ITEM 30 HAS BEEN REMOVED FROM  
4 CONSIDERATION AND PULLED.  
5 ONE OTHER ANNOUNCEMENT THAT I THINK  
6 IS GOING TO BE IMPORTANT, THERE'LL BE MORE  
7 INFORMATION FORTHCOMING -- HAVE TALKED WITH A  
8 NUMBER OF FELLOW BOARD MEMBERS, AND AS YOU WELL  
9 KNOW, THE MUCH-ANTICIPATED TIRE REPORT, WHICH IS  
10 GOING TO BE DUE SHORTLY, IN KEEPING WITH THE  
11 BOARD'S LONG-STANDING TRADITION AND POLICY, WE  
12 WILL BE HAVING A BOARD WORKSHOP MUCH LIKE THE AB  
13 59 WORKSHOP, WHERE ALL OF THE MEMBERS WILL BE  
14 ATTENDING AT A DULY-PUBLIC NOTICED MEETING, BUT  
15 NOT FOR ANY CONSIDERATION IN THE MATTER.  
16 WE'RE TRYING TO SET THAT WORKSHOP FOR  
17 MARCH 31ST, WHICH IS A WEDNESDAY. THAT DATE IS  
18 SUBJECT TO CHANGE WITHIN A DAY OR TWO, DEPENDING  
19 UPON INDIVIDUAL MEMBERS' SCHEDULE, AS WELL AS  
20 SOME OF THE STAKEHOLDERS. SO I WOULD HOPE THAT  
21 YOU WOULD MARK YOUR CALENDARS ACCORDINGLY FOR  
22 THAT REPORT, WHICH I THINK WILL PROVIDE AN  
23 ADDITIONAL OPPORTUNITY FOR BOARD MEMBERS, WITHOUT  
24 SOME OF THE OTHER FORMALITIES, TO HEAR SOME VIEWS  
25 AND TO HAVE A GOOD DISCUSSION.



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1 IV                    REPORTS AND PRESENTATIONS

2                    CHAIRMAN EATON: RIGHT NOW I WAS  
3 WONDERING IF ANY BOARD MEMBERS HAVE ANY REPORTS  
4 OR ITEMS THAT THEY'D LIKE TO BRING UP. MR.  
5 PENNINGTON?

6                    MEMBER PENNINGTON: NO. THANK YOU, MR.  
7 CHAIRMAN.

8                    CHAIRMAN EATON: MR. ROBERTI?

9                    MEMBER ROBERTI: I HAVE AN *EX PARTE*.

10                  CHAIRMAN EATON: OKAY.

11                  MEMBER ROBERTI: I HAVE AN EVAN EDGAR, BARBARA BEARD AND  
12 JENNY LORD, GUADALUPE LANDFILL.

13                  CHAIRMAN EATON: MR. FRAZEE?

14                  MEMBER FRAZEE: NO.

15                  CHAIRMAN EATON: NONE? GREAT.

16                  ORAL REPORTS FROM BOARD MEMBERS

17                  CHAIRMAN EATON: ALL RIGHTY. MR.  
18 CHANDLER, YOUR REPORT. OH, I'M SORRY, MR. JONES. I'M SO USED TO  
19 HAVING YOU ON MY RIGHT, YOU KNOW?

20                  MEMBER JONES: I'M EASY TO MISS. I NEED  
21 TO JUST MAKE A PRESENTATION TO YOU AND THE BOARD  
22 ON BEHALF OF AMERICA RECYCLES DAY, IF YOU WANT  
23 TO... . DO YOU WANT TO GO DOWN THERE, OR DO YOU  
24 WANT TO DO IT HERE?

25                  CHAIRMAN EATON: STAND UP HERE IN THE

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1 INTEREST OF TIME.

2 MEMBER JONES: JUST SO EVERYBODY KNOWS,  
3 THIS BOARD TOOK A VERY ACTIVE ROLE IN THE AMERICA  
4 RECYCLES DAY'S SECOND EVEN, OR SECOND YEAR. I  
5 WAS THE STATE CO-CHAIR. AND WE ENDED UP WITH A  
6 LOT OF ITEMS THAT CAME UP TO THIS BOARD. WE  
7 ENDED UP CREATING CERTIFICATES, BOARD MEMBERS AND  
8 STAFF WENT INTO 50 JURISDICTIONS AND AWARDED  
9 THOSE CERTIFICATES FOR MAKING THE FIRST PART OF  
10 THE MANDATE. AND IT ADDED A LOT OF VALIDITY, AND  
11 GOT EXPOSURE IN THOSE AREAS. AND I WANT TO THANK  
12 THE STAFF.

13 BUT, AMERICA RECYCLES DAY WANTED TO  
14 THANK -- WE HAD AN EVENT DOWN IN SOUTHERN  
15 CALIFORNIA WHERE I PRESENTED THESE TO AN AWFUL  
16 LOT OF CORPORATE SPONSORS, AND FOLKS THAT HAD  
17 WORKED AWFULLY HARD ON THIS PROJECT. AND IT  
18 SAYS:

19 "THANK YOU, CALIFORNIA CELEBRATES  
20 AMERICA RECYCLES DAY 1998. AS A SPONSOR  
21 OF CALIFORNIA'S AMERICA RECYCLES DAY, THE  
22 WASTE BOARD PLAYED A PIVOTAL ROLE IN THE  
23 CAMPAIGN'S SUCCESS. YOUR SPONSORSHIP  
24 ALSO DEMONSTRATED, IN A VERY TANGIBLE  
25 WAY, A COMMITMENT TO BUYING RECYCLED AND

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1 EFFECTIVE GOVERNMENT LEADERSHIP. ON BOTH  
2 COUNTS YOU HAVE OUR SINCERE APPRECIATION.  
3 STEVEN R. JONES AND JIM COLE, CALIFORNIA  
4 CO-CHAIRS."  
5 AND I'LL PRESENT THIS TO YOU AND THE  
6 BOARD.  
7 AND I NEED YOU TO KNOW THAT AMERICA  
8 RECYCLES DAY IS LOOKING FOR ANOTHER STATE CO-  
9 CHAIR FROM THIS BOARD. AND I DON'T THINK IT'S  
10 FAIR THAT I GET TO HOG ALL THAT FUN ALL TO  
11 MYSELF. SO I THINK THAT YOU NEED TO THINK ABOUT  
12 WHO'D LIKE TO TAKE OVER THOSE -- THAT ROLE, SO.  
13           CHAIRMAN EATON: I KNOW MY FELLOW BOARD  
14 MEMBERS WOULD JOIN ME IN PUSHING A VOTE THAT WE  
15 RE-UP YOU FOR ANOTHER TERM. I THINK YOU OUGHT  
16 NOT TO PUSH THAT ONE TODAY. AND WE'LL MOVE RIGHT  
17 ALONG TO MR. CHANDLER'S. AND I WAS TRYING TO DO  
18 YOU A FAVOR WHEN I PASSED OVER YOU THE FIRST  
19 TIME, I WOULD HAVE THOUGHT YOU'D HAVE CAUGHT IT.  
20 MR. CHANDLER.  
21 ORAL REPORT FROM THE EXECUTIVE DIRECTOR AND  
22 EXECUTIVE STAFF  
23 MR. CHANDLER: THANK YOU, MR. CHAIRMAN.  
24           CHAIRMAN EATON: THANK YOU.  
25 MR. CHANDLER: AND GOOD MORNING, MEMBERS.

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1 I HAVE ONE ITEM THIS MORNING I'D LIKE TO COVER.  
2 BUT, BEFORE I GET INTO THE SUBSTANCE  
3 OF THAT ITEM I WOULD LIKE TO JOIN THE MEMBERS AND  
4 THE AUDIENCE ON BEHALF OF THE STAFF IN THANKING  
5 VICE CHAIRMAN BOB FRAZEE FOR HIS MANY YEARS OF  
6 SERVICE TO THE PEOPLE OF CALIFORNIA. AND,  
7 ESPECIALLY FOR THE LAST FOUR YEARS OF HIS LONG  
8 AND DISTINGUISHED CAREER SPENT HERE AT THE WASTE  
9 BOARD. WHEN I THINK OF BOB FRAZEE I THINK OF  
10 HARD-WORKING, DOES HIS HOMEWORK, THOUGHTFUL AND  
11 INSIGHTFUL, A REAL GENTLEMAN. BOB, YOU'LL BE  
12 MISSED.  
13 AS YOU RESIGN EFFECTIVE THE END OF  
14 THE MONTH, AND RETIRE, AND ENJOY THE COMPANY OF  
15 YOUR WIFE AND FAMILY IN CARLSBAD, AND PROBABLY DO  
16 A LITTLE TRAVELING, THE STAFF AND I WISH YOU  
17 HEALTH AND HAPPINESS, AND THANK YOU FOR YOUR  
18 LEADERSHIP AND SUPPORT. AS A VERY SMALL GESTURE  
19 OF OUR APPRECIATION FOR YOUR YEARS OF SERVICE,  
20 THE STAFF OF THE ORGANIZATION WOULD LIKE TO GIVE  
21 YOU A SMALL GIFT WHICH, IN MANY WAYS, SYMBOLIZES  
22 YOUR STYLE AND ACUMEN WHILE ON THE BOARD.  
23 MANY IN THE AUDIENCE MAY NOT KNOW  
24 THAT BOB IS AN ACCOMPLISHED WOODWORKER, PRIDING  
25 HIMSELF ON SALVAGING MATERIALS TO BUILD THAT

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1 OCCASIONALLY-NEEDED SHELF OR CABINET FOR THE  
2 HOUSE OR GARAGE.  
3 BOB, THESE THREE ANTIQUE REPLICAS OF  
4 OLD WOODWORKING TOOLS ALSO SERVE AS A MAGNET TO  
5 BE PLACED, PERHAPS, ON YOUR REFRIGERATOR TO  
6 DISPLAY THAT LATEST PICTURE OF ONE OF YOUR LOVELY  
7 GRANDCHILDREN, OR THAT REMINDER FOR THE NEXT  
8 DEPARTURE DATE ON A TOUR SOON TO COME. BOB, THE  
9 OLD HANDSAW REPRESENTS YOUR ABILITY TO CUT AN  
10 ISSUE DOWN TO THE RIGHT SIZE FOR GOOD PUBLIC  
11 CONSIDERATION AND GOOD PUBLIC POLICY. THE HAND  
12 PLANE REPRESENTS SMOOTHING OUT THE ROUGH EDGES ON  
13 A POLICY OR A REGULATORY PACKAGE. AND IF ALL  
14 ELSE FAILS, THE BALL-PEEN HAMMER SERVES TO  
15 ENFORCE THE ULTIMATE IN THAT OCCASIONAL UNJUST  
16 LAW. AGAIN, BOB, THANK YOU VERY MUCH.  
17 (APPLAUSE.)

18           MEMBER FRAZEE: THANK YOU. I'D INDICATE,  
19 THIS IS FROM ONE OF MY FAVORITE STORES,  
20 RESTORATION HARDWARE. BUT ALSO THE  
21 APPROPRIATENESS OF IT, BECAUSE I -- AMONG OTHER  
22 THINGS, I AM A COLLECTOR OF ANTIQUE TOOLS, AND  
23 HAVE BROUGHT BACK ANTIQUE TOOLS FROM AS DIVERSE  
24 PLACES AS LISBON, PORTUGAL, AND LONDON, ENGLAND,  
25 AND JOHANNESBURG, SOUTH AFRICA. SO, THIS WILL

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1 FIT RIGHT IN WITH IT. THANK YOU.

2 MR. CHANDLER: THANK YOU.

3 NOW, IF I COULD MR. CHAIR AND

4 MEMBERS, I WOULD LIKE TO SPEAK TO JUST THE

5 REMAINING ITEM ON MY REPORT THIS MORNING. AND

6 THAT HAS TO DO WITH A PROCESS THAT THOSE ON THE

7 BOARD ARE FAMILIAR WITH THIS MONTH, AND THAT WE

8 ARE BEGINNING TO RE-INSTITUTE, OUR USE OF THE

9 CONSENT CALENDAR. AND LET ME JUST GIVE SOME

10 BACKGROUND AND CONTEXT FOR THOSE IN THE AUDIENCE

11 TO LET YOU KNOW WHERE WE'RE AT.

12 ON FEBRUARY 4TH I DRAFTED A MEMO TO

13 THE BOARD AND INDICATED A SUGGESTED PROCEDURE IN

14 WHICH WE COULD RESUME USING A CONSENT CALENDAR

15 PROCESS FOR CONSIDERATION OF ITEMS COMING BEFORE

16 THE BOARD. AS YOU KNOW, THAT MEMO PROVIDED

17 BACKGROUND, AGAIN THE SUGGESTED PROCEDURE, HOW IT

18 WOULD BE PLACED ON THE CALENDAR, AS WELL AS THE

19 CRITERIA THAT I AM SUGGESTING THAT WE CONSIDER

20 USING.

21 FOLLOWING THAT FEBRUARY 4TH MEMO MY

22 CHIEF DEPUTY, KEITH SMITH, THEN PROVIDED YOU A

23 MEMO DATED FEBRUARY 17TH, WHICH LISTED ALL THE

24 CONSENT ITEMS THAT WE ARE RECOMMENDING FOR

25 CONSIDERATION FOR THIS BOARD MEETING TODAY.

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1 AND, AS YOU KNOW, ANY ITEM THAT IS  
2 LISTED AS CONSENT ALWAYS CARRIES WITH IT THE  
3 PREROGATIVE OF ANY MEMBER OR THE PUBLIC TO ASK  
4 THAT THE ITEM BE PULLED FROM CONSENT.  
5 I PUT THIS FORWARD, IN THAT WE  
6 PROPOSE TO BRING THIS POLICY FORWARD NEXT MONTH  
7 IN THE FORM OF A MORE APPROPRIATE OR OFFICIAL  
8 AGENDA ITEM. BUT I WOULD LIKE TO HAVE IT SERVE  
9 TODAY AS A TEST BED, IF YOU WILL, IN ABSENCE OF  
10 THE COMMITTEE STRUCTURE, ON HOW WE HAVE ATTEMPTED  
11 TO BRING ITEMS FORWARD, THE CRITERIA THAT WE'VE  
12 USED WITH YOU, AND TO GET YOUR FEEDBACK AND INPUT  
13 ON HOW WE CAN CONTINUE TO IMPROVE THIS PROCESS AS  
14 WE MOVE IN THE MONTHS AHEAD.  
15 BUT, I THINK YOU'LL FIND THAT THE  
16 MEMOS SPEAK FOR THEMSELVES RELATIVE TO THE  
17 PROCEDURE AND THE CRITERIA, AND I HOPE THAT YOU  
18 FIND THE USE OF A CONSENT CALENDAR ONE IN WHICH  
19 MAKES OUR BUSINESS MORE EFFICIENT AND STREAMLINES  
20 GETTING TO THE HEART OF SOME OF THE LARGER ISSUES  
21 THAT WE THEN NEED TO DEAL WITH AS A FULL BOARD.  
22 AND WITH THAT, I'LL ENTERTAIN ANY  
23 QUESTIONS EITHER ON THE CONSENT CALENDAR, THE  
24 PROCESS, OR THE ITEMS THEMSELVES. AND REITERATE  
25 THAT WE WILL THEN BE LOOKING FOR YOUR COMMENTS AT

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1 THE END OF THE DAY OR THROUGH THE WEEK, AND  
2 PREPARE AN AGENDA ITEM ON THIS SUBJECT FOR THE  
3 MARCH BOARD MEMBER. THANK YOU.

4 CHAIRMAN EATON: ARE THERE ANY QUESTIONS  
5 TO MR. CHANDLER OR OBJECTIONS TO THE PROCESS THAT  
6 HE'S LAID OUT FOR TODAY?

7 V. CONTINUED BUSINESS AGENDA ITEMS

8 CHAIRMAN EATON: OKAY. HEARING NONE,  
9 MOVING RIGHT ALONG ON OUR AGENDA, IT'S MY  
10 UNDERSTANDING FROM STAFF THAT WE HAVE NO AGENDAS  
11 TO BE HEARD UNDER THE CONTINUING BUSINESS AGENDA  
12 ITEM.

13 VI. CONSENT AGENDA

14 CONSIDERATION OF APPROVAL OF CONSENT AGENDA  
15 ITEMS

16 CHAIRMAN EATON: THE NEXT ITEM, CONSENT  
17 CALENDAR AS PROPOSED BY MR. CHANDLER. THE  
18 FOLLOWING ITEMS HAVE BEEN PLACED ON THE CONSENT  
19 AGENDA: ITEMS 5, 6, 7, 21, 22, 23, 24, AND 26.  
20 AS REGARDS UNDER ITEM NO. 24, THE  
21 JURISDICTIONS TO BE INCLUDED IN THAT ITEM, AS  
22 MENTIONED BEFORE, WE HAD ONE ITEM PULLED. THOSE  
23 WILL BE ELDORADO COUNTY, ELDORADO COUNTY  
24 UNINCORPORATED, PLACERVILLE, SOUTH LAKE TAHOE,  
25 FRESNO COUNTY, FRESNO, KERN COUNTY, MARICOPA,



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1 MCFARLAND, LAKE COUNTY, LAKE COUNTY  
2 UNINCORPORATED, MARIPOSA COUNTY, MARIPOSA COUNTY  
3 UNINCORPORATED, NAPA COUNTY, NAPA, NEVADA COUNTY,  
4 TRUCKEE, ORANGE COUNTY, COSTA MESA, SAN  
5 BERNARDINO COUNTY, TWENTY NINE PALMS, UKIPA, YUCA  
6 VALLEY, SAN DIEGO COUNTY, SAN DIEGO COUNTY  
7 UNINCORPORATED, SANTEE, SANTA BARBARA COUNTY,  
8 GUADALUPE, SONOMA COUNTY, SONOMA COUNTY WASTE  
9 MANAGEMENT AGENCY, VENTURA COUNTY, CAMARILLO, AND  
10 FILLMORE.

11 NOW WE'LL MOVE TO OUR NEXT ORDER OF  
12 BUSINESS.

13 MEMBER JONES: MR. CHAIRMAN?

14 CHAIRMAN EATON: YES, MR. JONES.

15 MEMBER JONES: ARE YOU LOOKING FOR A  
16 MOTION ON THE CONSENT?

17 CHAIRMAN EATON: A MOTION ON THE CONSENT,  
18 CALENDAR, YEAH.

19 MEMBER JONES: I'D LIKE TO MAKE A MOTION  
20 ON THE CONSENT.

21 I WOULD ALSO LIKE TO THANK YOU FOR  
22 READING THE NAMES OF THOSE JURISDICTIONS INTO THE  
23 RECORD.

24 MEMBER PENNINGTON: MR. CHAIRMAN, I'D BE  
25 HAPPY TO SECOND THE MOTION.

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1 I DO HAVE TO ASK, THOUGH, HAS THIS  
2 PROPERLY NOTICED? WE DON'T -- I MEAN, WE'RE  
3 GOING TO ADOPT THE PROCEDURE NEXT MONTH, SO WE  
4 DON'T REALLY HAVE A PROCEDURE TO ADOPT THESE ON  
5 THIS MONTH, DO WE?  
6 CHAIRMAN EATON: WELL, I THINK THAT MR.  
7 CHANDLER SUFFICIENTLY EXPLAINED THAT. IT'S ONE  
8 OF THOSE SITUATIONS THAT SOMETIMES IT'S NOT MEANT  
9 AS -- TO BE INJURIOUS. IN SPEAKING WITH LEGAL  
10 COUNSEL AND OTHERS ON THE PROCEDURAL ASPECTS OF  
11 IT, THAT AS WE'RE TRYING TO MOVE THROUGH AND MOVE  
12 FROM ONE END TO ANOTHER, THAT THIS IS COMPLETELY  
13 IN LINE AND IS NOT OVER THE BOUNDS, ESPECIALLY  
14 SINCE WE BRING IT BACK. IT'S ONE OF THOSE  
15 SITUATIONS WHEN YOU TRY AND INVESTIGATE FACTS TO  
16 HIDE BEHIND THE FACT THAT WE NEED FACTS BEFORE WE  
17 CAN INVESTIGATE FACTS KIND OF BEGS THE QUESTION.  
18 SO I BELIEVE THAT IT IS PROPERLY  
19 BEFORE US. BUT OBVIOUSLY, IF YOU FEEL STRONGLY  
20 ABOUT IT, WE CAN EITHER REMOVE THE ITEMS AND HEAR  
21 THEM ALL AT THE SAME TIME, OR SEEK SOME GUIDANCE  
22 FROM EITHER MR. CHANDLER, WHO HAS CONFERRED WITH  
23 NUMEROUS AUTHORITIES, OR OUR LEGAL COUNSEL.  
24 CHAIRMAN EATON: WELL, I DON'T -- YOU  
25 KNOW, I DON'T FEEL THAT STRONG ABOUT IT, ALTHOUGH

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1 I JUST WOULD LIKE TO MAKE SURE THAT WE'RE DOING  
2 IT PROPERLY. AND IF LEGAL COUNSEL THINKS THAT  
3 WE'RE DOING IT PROPERLY -- YOU KNOW, AS I SAID, I  
4 SECONDED IT, SO I'M IN FAVOR OF IT.

5 AND I THINK WE NEED TO GET TO A  
6 CONSENT CALENDAR. I'M CERTAINLY NOT OPPOSED TO  
7 THE CONCEPT, I JUST WANT TO MAKE SURE THAT WE'RE  
8 DOING IT PROPERLY.

9 CHAIRMAN EATON: SURE.

10 MR. CHANDLER: AND AS YOU KNOW, THE  
11 ADMINISTRATIVE PREROGATIVE OF THE CHAIR TO PULL  
12 ITEMS THAT AREN'T READY EXTENDS TO OTHER  
13 ADMINISTRATIVE NATURES THAT I FEEL I CAN BRING TO  
14 THE BOARD THAT ALLOWS US TO MOVE OUR BUSINESS  
15 ALONG.

16 I KNOW I DISCUSSED WITH YOU ALL  
17 INDIVIDUALLY THIS MEMO ON FEBRUARY 4TH AND THE  
18 PROCESS. I'D LIKE THIS TO BE AN OPPORTUNITY  
19 WHERE I CAN GET YOUR FEEDBACK ON ANY WAYS WE CAN  
20 IMPROVE IT. WE'LL INCORPORATE THOSE INTO THE  
21 ITEM WE'LL BRING TO THE BOARD NEXT MONTH. BUT  
22 I'M COMFORTABLE WITH THIS PROCESS, AND I'M ALSO  
23 COMFORTABLE IN THAT IT IS -- THE USE OF THE  
24 CONSENT CALENDAR IS A PRECEDENT THAT THE BOARD  
25 HAS WELL ESTABLISHED AND, I BELIEVE, COMFORTABLE

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1 WITH.

2 SO, WITH THAT, I WOULD STRONGLY

3 ENCOURAGE THAT WE USE TODAY AS A WAY TO GET ME

4 SOME FEEDBACK ON WHAT YOU MIGHT LIKE TO SEE

5 CHANGED. BUT I CERTAINLY DON'T HAVE A PROBLEM

6 WITH IT FROM MY PERSPECTIVE.

7 CHAIRMAN EATON: ALL RIGHTY. HAVING A

8 PROPER MOTION BEFORE US, AND A SECOND, WITH

9 REGARD TO THE CONSENT CALENDAR, MADAM SECRETARY,

10 WOULD YOU PLEASE CALL THE ROLL?

11 THE SECRETARY: BOARD MEMBERS FRAZEE?

12 MEMBER FRAZEE: AYE.

13 THE SECRETARY: JONES?

14 MEMBER JONES: AYE.

15 THE SECRETARY: PENNINGTON?

16 MEMBER PENNINGTON: AYE.

17 THE SECRETARY: ROBERTI?

18 MEMBER ROBERTI: AYE.

19 THE SECRETARY: CHAIRMAN EATON?

20 CHAIRMAN EATON: AYE.

21 ALL RIGHT. THE NEXT ORDER OF

22 BUSINESS.

23 BEFORE WE DO THAT, MR. JONES HAS

24 REMINDED ME THAT -- AND MR. PENNINGTON I KNOW IS

25 LYING IN WAIT ON THIS ONE, BECAUSE IT'S SOMETHING

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1 THAT HE WAITS FOR RELIGIOUSLY EVERY BOARD  
2 MEETING, IS THE REPORT ON THE 21ST CENTURY  
3 PROJECT. AND I FIGURE THAT SINCE I'M CHAIR NOW I  
4 CAN PULL RANK ON MR. JONES.  
5 50, MR. JONES, LET US HAVE IT.  
6 MEMBER JONES: THANK YOU, MR. CHAIRMAN,  
7 SORRY ABOUT THAT.  
8 THE 21ST CENTURY PROJECT, WE ARE --  
9 JUST A QUICK UPDATE. THE SECOND STAGE OF WHAT  
10 WILL BE PROBABLY THREE OR FOUR STAGES WILL TAKE  
11 PLACE AT THE SACRAMENTO CONVENTION CENTER ON  
12 MARCH 9TH.  
13 THERE WILL BE A SECOND DAY ACTIVITY  
14 THAT'S GOING TO BE TRIMMED DOWN QUITE A BIT, BUT  
15 I THINK WE'VE SENT INVITATIONS TO OVER 700 FOLKS,  
16 AND WE'RE HOPING THAT WE GET AT LEAST 200 OR 300  
17 OF THEM TO SPEND THE DAY WORKING ON SCENARIOS.  
18 AND THE WAY THIS IS GOING TO WORK,  
19 FOR THOSE OF YOU WHO THAT KNOW, OUR 21ST CENTURY  
20 ISSUE CONFERENCE DOWN IN THE CITY OF INDUSTRY IN  
21 JANUARY IDENTIFIED IN EXCESS OF 400 ISSUES, AND  
22 ANOTHER 200 OR 300 TRENDS. AND WHILE EVERYBODY  
23 MAY HAVE HAD A LITTLE DIFFERENT WORD USED, THEY  
24 REALLY FELL INTO EIGHT CATEGORIES DEALING WITH  
25 MARKET DEVELOPMENT, SUSTAINABILITY, A WHOLE RANGE

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1 OF ISSUES.  
2 AND WHAT WE WILL BE DOING ON MARCH  
3 9TH -- OR, WHAT WE ARE DOING NOW IS THERE ARE TWO  
4 BOARD TEAMS, ONE LED BY CHAIRMAN EATON AND ONE  
5 LED BY MYSELF, WITH ABOUT -- TEAMS OF ABOUT EIGHT  
6 OR 10 FOLKS ON THEM, THAT ARE DEVELOPING AN  
7 ISSUES STATEMENT FOR EACH ONE OF THOSE CATEGORIES  
8 THAT WILL GIVE A LITTLE BIT OF THE ISSUE, AS WELL  
9 AS A LITTLE BIT OF THE HISTORY THAT WENT BEHIND  
10 IT.  
11 AND THEN GOING TO THE TEXT OF  
12 IDENTIFIED ISSUES AND TRENDS FROM THE ISSUES  
13 FORUM, WE ARE PULLING OUT IDEAS TO LIST AS PART  
14 OF THAT DOCUMENT SO THAT IT WILL EVOKE THOUGHTS  
15 BOTH ON BEST-CASE SCENARIO, WHAT WOULD HAPPEN IN  
16 THE BEST OF ALL WORLDS IF -- TO MAKE MARKET  
17 DEVELOPMENT WORK.  
18 AND WHILE THERE WILL BE SOME TABLES  
19 THAT WILL BE DEVELOPING THAT IDEA, THAT SCENARIO,  
20 THERE WILL ALSO BE ANOTHER TABLE THAT IS GOING TO  
21 BE WORKING ON WHAT'S THE WORST-CASE SCENARIO.  
22 WHAT IS THE WORST THING THAT CAN HAPPEN THAT  
23 COULD KILL MARKET DEVELOPMENT BASED ON THE ISSUES  
24 THAT WERE IDENTIFIED.  
25 AND WHAT THIS BOARD WILL DO WILL BE,

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1 THEY WILL TAKE THOSE SCENARIOS AND LOOK AT WHAT  
2 ARE THE TRIGGER POINTS, WHAT'S THE APPROPRIATE  
3 LEVEL OF INVOLVEMENT FROM US, OR FROM DIFFERENT  
4 ORGANIZATIONS TO DETERMINE HOW WE GET TO WHAT IS  
5 A REASONABLE SCENARIO, WHAT WE CAN EXPECT IN THE  
6 FUTURE.  
7 AND WE'VE GOT TO REMEMBER THAT THE  
8 WHOLE REASON FOR THIS EXERCISE IS TRYING TO  
9 IDENTIFY WHAT WE, AS WELL AS THE PEOPLE IN  
10 CALIFORNIA AND THE INDUSTRIES THAT SERVE THEM,  
11 ARE GOING TO FACE IN THAT FIRST DECADE OF THE  
12 21ST CENTURY.  
13 SO I WANTED TO GIVE AN UPDATE. IT'S  
14 MARCH 9TH. IF YOU'VE GOTTEN AN INVITATION AND  
15 YOU WANT TO BE PART OF THE PROCESS, I WOULD URGE  
16 YOU TO DO SO. I WILL TELL YOU RIGHT NOW, THOSE  
17 PEOPLE THAT PARTICIPATED IN THE FORUM ARE  
18 EXPECTING THAT BECAUSE WE DID SUCH A GOOD JOB,  
19 BECAUSE OUR STAFF DID SUCH A GOOD JOB, THE BAR  
20 HAS BEEN RAISED TO A LEVEL THAT PEOPLE ARE GOING  
21 TO EXPECT AN INCREDIBLE EVENT. AND THERE IS NO  
22 DOUBT IN MY MIND THAT THEY WILL BE PARTICIPANTS  
23 IN AN INCREDIBLE EVENT. SO.  
24 CHAIRMAN EATON: ALL RIGHTY. OUR FIRST  
25 ITEM —

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1 MR. CHANDLER: MR. CHAIRMAN?

2 CHAIRMAN EATON: YES.

3 MR. CHANDLER: I'M SORRY TO INTERRUPT,

4 AND I THINK I GOT A LITTLE BIT AHEAD OF MYSELF,

5 BECAUSE I SEE WE'RE ON THE CONSIDERATION -- OR,

6 WE JUST COMPLETED THE 21ST CENTURY PROJECT AND

7 THE NEXT ITEM WAS GOING TO BE THE CONSENT

8 CALENDAR, WHICH YOU'VE ALREADY TAKEN CARE OF.

9 BUT I HAVE IN MY NOTES ONE ITEM ON

10 CONSENT THAT I FEEL I NEED TO TALK TO MR. JONES

11 ABOUT, BECAUSE I DID FEEL THAT PERHAPS, AT LEAST

12 IN TALKING WITH STAFF, THERE'S A DISCREPANCY IN

13 THE DOLLAR AMOUNT THAT WE NEED FOR ITEM NO. 5,

14 RELATIVE TO THAT SCOPE OF WORK, ON A CONSTRUCTION

15 PHASE OF A SEPTIC TANK LEACH FIELD DEMONSTRATION

16 PROJECT.

17 AND I JUST WANT TO ASK, AGAIN, IF

18 THERE'S ANY QUESTIONS FROM YOUR PART. I KNOW

19 FROM STAFF'S PART WE DO FEEL THERE'S A

20 DISCREPANCY IN THE TOTAL DOLLAR AMOUNT THAT WE

21 NEED FOR THAT EFFORT.

22 SO, MR. JONES?

23 MEMBER JONES: THE LEACH FIELD PROJECT,

24 WE'RE WORKING WITH CALTRANS ON AN IDENTIFIED SITE

25 THAT IS IN DANGER. AND WHAT WE'RE TRYING TO USE



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1 IS RUBBERIZED -- OR, RUBBER CHIPS IN A CIVIL  
2 ENGINEERING PROJECT.  
3 WHAT CALTRANS HAS ASKED THAT NOT ONLY  
4 DOING THE WHOLE LEACH FIELD IN RUBBER CHIPS, BUT  
5 ALSO TO DO A PORTION OF THAT FIELD IN THE NORMAL  
6 WAY, WHICH IS AN AGGREGATE.  
7 AND I THINK THERE'S A BENEFIT FOR  
8 THIS BOARD IN DOING IT THAT WAY, BECAUSE NOW WE  
9 CAN MONITOR ONE AGAINST THE OTHER THAT ARE BOTH  
10 BEING CONSTRUCTED AT THE SAME TIME. BECAUSE ALL  
11 INDICATIONS FROM THE SOUTH PART OF OUR COUNTRY IS  
12 THAT THE RUBBERIZED CHIPS HAVE AN ADVANTAGE.  
13 THIS CHANGES STILL KEEPS US ALMOST  
14 \$90,000 UNDER THE DOLLARS THAT WERE ALLOCATED,  
15 THAT'S WHY I DIDN'T HAVE ANY HEARTBURN ON THE  
16 ITEM. OR 80,000. I THINK WE HAD ALLOCATED 250,  
17 THE ORIGINAL ESTIMATE WAS 110, AND THE DOLLARS  
18 ARE GOING TO BE ABOUT 170. SO WE'RE STILL WELL  
19 UNDER WHAT WE HAD PROPOSED, THANKS TO SOME GOOD  
20 NEGOTIATING I THINK.  
21 MR. CHANDLER: WE MIGHT BE SPLITTING  
22 HAIRS, BUT I THINK IN ORDER -- JUST TO HAVE THE  
23 RECORD REFLECT -- WE WOULD LIKE TO MAKE SURE THAT  
24 IN YOUR APPROVAL, EITHER ON CONSENT, OR IF YOU  
25 WANT TO PULL IT OFF CONSENT, THAT THE TOTAL

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1 DOLLAR AMOUNT THAT WE WOULD LIKE TO SEE THE SCOPE

2 OF WORK REFLECT FOR THIS EFFORT IS -- KARIN --

3 MS. FISH: IT'S \$170.00 (SIC), BUT — 4 MR. CHANDLER: \$170,000.

5 MS. FISH: WITH THE PHASE ONE PORTION

6 BEING INCREASED FROM \$50,000 TO \$100,000 TO

7 INCORPORATE THE EXPANDED LEACH FIELD COMPONENTS

8 AND THE SEPTIC TANK COMPONENT. SO THERE IS A

9 DOLLAR AMOUNT INCREASE IN PHASE ONE.

10 MEMBER JONES: MR. CHAIRMAN?

11 CHAIRMAN EATON: UM-HUM?

12 MEMBER JONES: CAN WE JUST PULL THIS OFF

13 OF CONSENT AND DEAL WITH IT AS A SEPARATE ACTION?

14 CHAIRMAN EATON: WELL, WE'D HAVE TO

15 RESCIND THE ACTION BY WHICH WE APPROVED THE

16 CONSENT CALENDAR ALREADY. SO WE'RE GOING TO HAVE

17 TO GO BACK THROUGH AND HAVE A MOTION TO RESCIND

18 THE CONSENT CALENDAR, GO BACK THROUGH, PULL IT

19 OFF, AND THEN DO IT AGAIN. THAT'S THE PROPER

20 WAY.

21 SO, IF I HAVE A MOTION TO RESCIND THE

22 ACTION --

23 MEMBER PENNINGTON: MR. CHAIR?

24 CHAIRMAN EATON: I'M SORRY, MR.

25 PENNINGTON.

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1 MEMBER PENNINGTON: COULD WE JUST AMEND  
2 ITEM NO. 5, WITHOUT HAVING TO PULL EVERYTHING  
3 BACK OFF?

4 CHAIRMAN EATON: NO, I THINK I'M HEARING  
5 FROM LEGAL COUNSEL, AT LEAST, WE PROBABLY COULD  
6 HAVE AT THE FIRST TIME, BUT.... SO WHY DON'T WE  
7 JUST --

8 MEMBER PENNINGTON: OKAY. I'LL MAKE A  
9 MOTION WE RESCIND THE ACTION ON ITEM NO. 1, THE  
10 CONSENT CALENDAR.

11 CHAIRMAN EATON: DO WE HAVE A SECOND?

12 MEMBER JONES: I'LL SECOND.

13 CHAIRMAN EATON: ALL RIGHTY. ANY  
14 OBJECTION TO SUBSTITUTING THE ROLL CALL FOR THE  
15 CONSENT CALENDAR FOR THE RESCINDING OF THIS  
16 ACTION? HEARING NONE, THAT'LL BE THE ORDER.  
17 OKAY. MR. JONES?

18 MEMBER JONES: MR. CHAIRMAN, I'D LIKE TO  
19 BRING FORWARD ITEM NO. 5 --

20 CHAIRMAN EATON: PERHAPS WHAT WE CAN DO  
21 IS REMOVE THAT FROM THE CONSENT CALENDAR, VOTE ON  
22 THAT -- NO, WE RESCINDED THE ACTION FOR THE  
23 ENTIRE CONSENT CALENDAR.

24 MEMBER JONES: OKAY, I'VE GOT YOU.

25 MEMBER PENNINGTON: SO WE WANT TO MOVE

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1 THE DELETION OF ITEM NO. 5 FROM THE CONSENT

2 CALENDAR --

3 CHAIRMAN EATON: CORRECT.

4 MEMBER PENNINGTON: -- AND MOVE THE

5 CONSENT CALENDAR?

6 CHAIRMAN EATON: CORRECT, SIR.

7 MEMBER PENNINGTON: SO MOVED.

8 MEMBER JONES: I'LL SECOND.

9 CHAIRMAN EATON: ALL RIGHT. ANY

10 OBJECTIONS TO SUBSTITUTING THE ROLL CALL,

11 PREVIOUS ROLL CALL? OKAY, HEARING NONE, SO SHALL

12 BE ORDERED.

13 MR. JONES?

14 MEMBER JONES: MR. CHAIRMAN, I WOULD LIKE

15 TO MOVE RESOLUTION 1999-63 TO SHOW THE AMENDED

16 DOLLAR AMOUNT TO BE \$170,000 TOTAL.

17 CHAIRMAN EATON: DO WE HAVE A SECOND?

18 MEMBER PENNINGTON: SECOND.

19 CHAIRMAN EATON: ALL RIGHTY. ANY

20 OBJECTION TO SUBSTITUTING THE PREVIOUS ROLL CALL

21 FOR THIS ITEM? HEARING NONE, SO SHALL BE

22 ORDERED.

23 NOW WE CAN TAKE UP THE REGULAR

24 CONSENT CALENDAR.

25 MEMBER JONES: THE REGULAR OTHER

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1 CALENDAR, RIGHT?

2 CHAIRMAN EATON: NO, WE HAVE THE REGULAR

3 CONSENT CALENDAR.

4 MEMBER PENNINGTON: MR. EATON, IT WAS

5 PART OF MY MOTION.

6 CHAIRMAN EATON: PART OF YOUR MOTION?

7 OKAY.

8 MEMBER PENNINGTON: SO IT'S BEEN TAKEN

9 CARE OF.

10 CHAIRMAN EATON: OKAY. ANYTHING ELSE,

11 MR. CHANDLER?

12 MR. CHANDLER: THANK YOU FOR LETTING ME

13 GO BACK ON THAT.

14 VII. NEW BUSINESS AGENDA ITEMS

15 WASTE PREVENTION AND MARKET DEVELOPMENT

16 MR. CHANDLER: AT THIS POINT I BELIEVE

17 WE'RE READY FOR ITEM NO. 2, WASTE PREVENTION AND

18 MARKET DEVELOPMENT. CAREN TRGOVCICH.

19 CHAIRMAN EATON: OKAY.

20 ITEM NO 2: RECONSIDERATION OF AUGUST 13,

21 1998, BOARD ACTION REGARDING AUDITS OF NEWSPRINT

22 CONSUMERS FOR COMPLIANCE YEAR 1997; CONSIDERATION

23 OF MODIFIED PENALTY CRITERIA AND ESTABLISHMENT OF

24 PENALTY STRUCTURE FOR LATE AND NON-FILERS OF

25 ANNUAL NEWSPRINT CERTIFICATIONS FOR COMPLIANCE

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1 YEAR 1998 AND FORWARD; AND CONSIDERATION OF  
2 ADOPTION OF EMERGENCY REGULATIONS IMPLEMENTING  
3 THE PENALTY STRUCTURE AND CRITERIA FOR LATE AND  
4 NON-FILERS  
5 MS. TRGOVCICH: GOOD MORNING, MR.  
6 CHAIRMAN AND MEMBERS, I'M CAREN TRGOVCICH, DEPUTY  
7 DIRECTOR OF THE WASTE PREVENTION AND MARKET  
8 DEVELOPMENT DIVISION.  
9 ITEM NO. 2 ON YOUR AGENDA THIS  
10 MORNING IS AN ITEM THAT WAS INITIALLY IN PART  
11 HEARD AT YOUR JANUARY BOARD MEETING. AT THE  
12 JANUARY BOARD MEETING THE BOARD HEARD AN ITEM  
13 DETAILING A PROPOSED SCOPE OF WORK IN RESPONSE TO  
14 AN AUGUST, 1998, DECISION BY THIS BOARD TO  
15 INITIATE AUDITS FOR CONSUMERS OF NEWSPRINT THAT  
16 FILED LATE AND DELINQUENT CERTIFICATIONS FOR  
17 CALENDAR YEAR 1997.  
18 AT YOUR JANUARY BOARD MEETING YOU  
19 ASKED THAT THIS ITEM BE BROUGHT FORWARD THIS  
20 MONTH TO LOOK AT TWO PRINCIPAL ISSUES. THE FIRST  
21 ISSUE WAS WHETHER OR NOT THE AUGUST BOARD  
22 DECISION IN 1998 TO INITIATE AUDITS SHOULD BE  
23 RECONSIDERED, AMENDED OR RESCINDED. AND THE  
24 SECOND PART WAS TO LOOK AT THE CONSIDERATION OF A  
25 PENALTY FRAMEWORK FOR LATE AND DELINQUENT FILERS

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1 OF NEWSPRINT CERTIFICATIONS.  
2 WHAT WE ARE GOING TO PROVIDE VERY  
3 BRIEFLY FOR YOU THIS MORNING ARE A SERIES OF  
4 OPTIONS PERTAINING TO THOSE TWO SPECIFIC ACTIONS.  
5 FIRST I'D LIKE TO BRIEFLY DESCRIBE  
6 THE DECISION TO DO AUDITS. THE CERTIFICATION  
7 PROCESS FOR NEWSPRINT CONSUMERS REQUIRES THAT BY  
8 MARCH 1 OF EACH CALENDAR YEAR THAT A NEWSPRINT  
9 CONSUMER FILE A CERTIFICATION COVERING THE  
10 PRECEDING CALENDAR YEAR. SO TO PUT IT INTO  
11 PERSPECTIVE, RIGHT NOW WE ARE ACCEPTING  
12 CERTIFICATIONS FOR CALENDAR YEAR 1998, AND THOSE  
13 ARE DUE ON MARCH 1, WHICH IS JUST ANOTHER WEEK  
14 AWAY.  
15 SOMETIME IN THE SUMMER -- AND THAT  
16 REALLY IS DEPENDENT UPON THE NUMBER OF LATE  
17 FILERS, HOW MANY PHONE CALLS, HOW MANY FOLLOW-UP  
18 LETTERS WE HAVE TO MAKE TO GET A LARGE ENOUGH  
19 POOL OF CERTIFICATIONS TO BRING FORWARD FOR BOARD  
20 CONSIDERATION -- WE PREPARE AN ITEM THAT  
21 SUMMARIZES THE COMPLIANCE CONTAINED IN THE  
22 CERTIFICATIONS.  
23 AND THE COMPLIANCE IS INTENDED TO  
24 SHOW WHETHER OR NOT CONSUMERS OF NEWSPRINT  
25 PURCHASED NEWSPRINT CONTAINING POST-CONSUMER

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1 FIBER AT 40 PERCENT CONTENT, MINIMUM CONTENT, AT  
2 CERTAIN LEVELS OF USAGE. FOR CALENDAR YEAR '97  
3 THEY MUST HAVE PROCURED 35 PERCENT AT THAT 40  
4 PERCENT MINIMUM CONTENT LEVEL. FOR CALENDAR YEAR  
5 '98 THAT IS BUMPED UP TO 40 PERCENT OF THEIR  
6 USAGE. AND IN THE YEAR 2000 THAT IS BUMPED UP TO  
7 50 PERCENT OF THEIR USAGE.  
8 WHEN WE COMPILE THE INFORMATION AND  
9 BRING IT FORWARD WE PRESENT AN ANALYSIS THAT  
10 LOOKS AT SEVEN DIFFERENT AREA OF CONSIDERATION.  
11 AND USING THOSE TOOLS, THOSE DECISION-MAKING  
12 TOOLS OR CRITERIA, DECISION-MAKING CRITERIA, THE  
13 BOARD THEN LOOKS AT THE STAFF ANALYSIS, HEARS  
14 TESTIMONY ON THE ITEM, AND MAKES A DECISION AS TO  
15 WHETHER OR NOT TO PROCEED WITH AN AUDIT PROCESS.  
16 FOR CALENDAR YEAR 1997 THE BOARD MADE  
17 A DECISION TO PROCEED WITH THE AUDIT PROCESS  
18 BASED UPON THREE OF THOSE SEVEN CRITERIA. ONE  
19 WAS THE INCREASE IN THE NUMBER OF LATE FILERS,  
20 THE SECOND WAS THE NUMBER OF QUESTIONABLE  
21 CERTIFICATIONS, AND THE THIRD WAS THE INABILITY  
22 TO RECONCILE AGGREGATE CONSUMPTION WITH AGGREGATE  
23 SHIPMENTS, SHIPMENTS MEANING WHAT THE  
24 MANUFACTURERS ARE SHIPPING VERSUS CONSUMPTION IN  
25 TERMS OF WHAT THE NEWSPRINT CONSUMERS ARE



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1 PROCURING.  
2 IT WAS BASED UPON THOSE THREE AREAS  
3 THAT THE BOARD SAID WE SHOULD INITIATE AUDITS.  
4 THIS IS AN ACTION THAT IS TAKEN BY THE BOARD EACH  
5 YEAR, NO ONE YEAR WILL GUIDE THE POLICY DIRECTION  
6 FOR THE BOARD IN FUTURE YEARS. THAT IS WHY THESE  
7 DECISION-MAKING TOOLS ARE JUST THAT, THEY ARE  
8 TOOLS, THEY DO NOT STATE WHETHER OR NOT AN AUDIT  
9 WILL OR WILL NOT BE CONDUCTED, THAT IS THE  
10 DECISION-MAKING PROCESS THAT THE BOARD INITIATES.  
11 SO IN BRINGING THIS ITEM FORWARD FOR  
12 THE FIRST PART, WHICH IS RE-LOOKING AT THAT  
13 AUGUST, 1998, DECISION TO INITIATE AUDITS, WE  
14 LOOKED AT THE PURPOSE FOR WHICH THE AUDITS WOULD  
15 BE CONDUCTED AND THE TIMING OF THE AUDITS  
16 RELATIVE TO THE CURRENT YEAR'S CERTIFICATION  
17 PROCESS. MEANING, WE ARE LOOKING AT AN AUDIT  
18 PROCESS FOR CALENDAR YEAR '97 WHEN WE ARE, IN  
19 FACT, RECEIVING CERTIFICATIONS FOR CALENDAR YEAR  
20 '98.  
21 SO WITH THAT, I'D LIKE TO ASK THE  
22 CHAIR, WOULD YOU LIKE US TO PROCEED TO LAY OUT  
23 THE OPTIONS FOR THE FIRST PART, WHICH IS THE  
24 AUDIT PORTION OF THIS ITEM, SEPARATELY, OR WOULD  
25 YOU LIKE US TO PROCEED TO DESCRIBE THE PENALTY

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1 FRAMEWORK, AND GO THROUGH ALL THE OPTIONS AT  
2 ONCE?

3 CHAIRMAN EATON: WITHOUT ANY OBJECTION, I  
4 WOULD PREFER TO HEAR THE FIRST PHASE AS IT  
5 RELATES TO THE AUDIT IN THE 1997 MATTER. AND  
6 THEN SEE IF MY FELLOW BOARD MEMBERS EVEN WANT TO  
7 PROCEED WITH REGARD TO THE SECOND HALF, OR WHAT  
8 THEIR THOUGHTS MIGHT BE.

9 MS. TRGOVCICH: OKAY. WITH THAT I'D LIKE  
10 TO ASK RICK MUELER OF THE DIVISION TO BRIEFLY GO  
11 OVER THE OPTIONS AS THEY'RE PRESENTED IN THE  
12 ITEM. AND WE APOLOGIZE FOR THE SMALL TYPE, BUT  
13 THE OPTIONS ARE ACTUALLY QUITE DETAILED.

14 MR. MUELER: GOOD MORNING, MR. CHAIRMAN  
15 AND MEMBERS. FOR THE RECORD, MY NAME IS RICK  
16 MUELER AND I'M CURRENTLY LED FOR THE RECYCLE  
17 CONTENT NEWSPRINT PROGRAM.  
18 I'D LIKE TO GO OVER THE -- FIRST THE  
19 OPTIONS FOR AUDITS FOR THE '97 COMPLIANCE YEAR.  
20 THE OPTION A.1 IS TO REAFFIRM THE AUGUST 13TH,  
21 1998 DECISION TO AUDIT NEWSPRINT CONSUMERS. AND  
22 THOSE -- AND THIS RELATES TO THE 18 CONSUMERS  
23 WHICH -- WELL, THIS GOES BACK TO THE SCOPE OF  
24 WORK WHICH I PRESENTED ON JANUARY 27TH, 1998.  
25 AND AS THE BOARD MEMBERS MAY RECALL, THIS HAD TO

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1 DO WITH AUDITING 18 CONSUMERS RANDOMLY THAT FILED  
2 LATE AND QUESTIONABLE CERTIFICATIONS, OR DIDN'T  
3 FILE CERTIFICATIONS AT ALL. AND THERE WERE ALSO  
4 TWO AUDITS OF CONSUMERS THAT WERE RANDOMLY  
5 SELECTED FROM A LIST OF CONSUMERS WHO FILED  
6 CERTIFICATIONS CORRECTLY. SO THIS OPTION A.1 IS  
7 -- BASICALLY PUTS US ON THE SAME PATH THAT WE  
8 WERE ON AUGUST 13TH.  
9 OPTION A.2 IS TO REAFFIRM THE AUGUST  
10 13TH, 1998, DECISION TO AUDIT NEWSPRINT  
11 CONSUMERS. HOWEVER, WE WOULD ONLY AUDIT  
12 CONSUMERS WHO FILED QUESTIONABLE CERTIFICATIONS  
13 OR DID NOT FILE CERTIFICATIONS. SO THIS WOULD  
14 INVOLVE A RELATIVELY MINOR MODIFICATION OF THE  
15 SCOPE OF WORK TO REFLECT THIS CHANGE FOR THE — 16 FOR A CONTRACT  
TO CONDUCT THESE AUDITS.  
17 AND THE THIRD OPTION, OPTION A.3, IS  
18 TO RESCIND THAT PORTION OF THE AUGUST 13TH, 1998,  
19 ACTION REGARDING AUDITS OF NEWSPRINT CONSUMERS  
20 FOR THE '97 COMPLIANCE YEAR. THIS IS BOARD  
21 STAFF'S RECOMMENDED OPTION. THE BOARD MAY WISH  
22 TO PURSUE THIS OPTION IF IT NO LONGER BELIEVES  
23 THAT AUDITS OF NEWSPRINT CONSUMERS ARE WARRANTED  
24 FOR THE '97 COMPLIANCE YEAR. BOARD STAFF  
25 BELIEVES THAT THE INCREASE IN LATE FILERS WAS THE

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1 PIVOTAL ISSUE IN THE DECISION TO AUDIT FOR 1997.

2 STAFF DO NOT CONSIDER THAT REMAINING AUDIT

3 TRIGGERS FOR 1997 COMPLIANCE YEAR VALIDATE THE

4 NEED FOR AUDITS.

5 CHAIRMAN EATON: THANK YOU.

6 ANY QUESTIONS OF STAFF?

7 MEMBER PENNINGTON: I'M FINE, MR.

8 CHAIRMAN.

9 MEMBER JONES: I'VE GOT A QUESTION, MR.

10 CHAIRMAN.

11 I THINK IN MY BRIEFING, DIDN'T YOU

12 SAY THAT THERE WERE ONLY FOUR OR SIX FILERS THAT,

13 IN FACT, HAD QUESTIONABLE...

14 MR. MUELER: JUST GOING BY MEMORY, I

15 BELIEVE THERE WAS SOMETHING LIKE FOUR TO SIX

16 QUESTIONABLE, INCOMPLETE CERTIFICATIONS

17 IDENTIFIED IN THAT 1997 STATUS REPORT. YES,

18 THAT'S RIGHT.

19 MEMBER JONES: AND THE LATE ONES THAT DID

20 COME IN, CAME IN AND THEY WERE OKAY, OR THE

21 MAJORITY OF THEM.

22 MR. MUELER: IN LOOKING AT THE

23 CERTIFICATIONS THAT WERE FILED VERY LATE, IN

24 OTHER WORDS OVER 45 DAYS LATE, I ONLY FOUND ONE

25 THAT WAS QUESTIONABLE. MOST OF THEM APPEARED TO

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1 BE IN ORDER.

2 MEMBER JONES: AND THAT WOULD FALL INTO

3 THAT FOUR TO SIX BRACKET.

4 MR. MUELER: RIGHT.

5 MEMBER JONES: THAT ONE.

6 MR. MUELER: RIGHT.

7 CHAIRMAN EATON: ALL RIGHT. I HAVE A

8 SPEAKER SLIP FOR TOM NEWTON, THE CALIFORNIA

9 NEWSPAPER PUBLISHERS ASSOCIATION.

10 MR. NEWTON, WOULD YOU MIND STATING

11 YOUR NAME FOR THE RECORD?

12 MR. NEWTON: GOOD MORNING, MR. CHAIRMAN

13 AND MEMBERS, TOM NEWTON --

14 MEMBER PENNINGTON: MR. CHAIRMAN, I HAVE

15 TO INTERRUPT AND GIVE MY LITTLE SPEECH THAT, I'VE

16 CLEARED IT WITH LEGAL COUNSEL, BUT I AM A MEMBER

17 OF THE CNPA. BUT IT DOES NOT PRESENT A CONFLICT

18 OF INTEREST.

19 MR. NEWTON: GOOD MORNING, MR. CHAIRMAN,

20 TOM NEWTON, CALIFORNIA NEWSPAPER PUBLISHERS

21 ASSOCIATION.

22 WE AGREE WITH STAFF HERE, THAT OPTION

23 A.3 WOULD BE PREFERABLE FOR OUR INDUSTRY. IT'S

24 REALLY A VERY SIMPLE ISSUE FOR US.

25 THE REAL PROBLEM HERE THAT WE NEED TO

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1 SOLVE IS THE LATE FILING OF CLAIMS. AND FROM OUR  
2 PERSPECTIVE, GOING TOWARDS A PENALTY STRUCTURE  
3 WILL MORE DIRECTLY ADDRESS THAT PROBLEM AND  
4 CORRECT THAT BEHAVIOR. AS AN INDUSTRY WE'RE A  
5 LITTLE BIT EMBARRASSED THAT WE CAN'T SEEM TO FILE  
6 THIS RELATIVELY SIMPLE FORM BY MARCH 1ST OF EACH  
7 YEAR. AND WE HAVE MADE ATTEMPTS TO DO BETTER.  
8 AND IN ORDER TO GO AT THAT PROBLEM DIRECTLY, IT  
9 SEEMS TO US THAT FINING LATE FILERS WOULD BE  
10 BETTER THAN AUDITING THEM WHEN THEY'RE REALLY  
11 OBVIOUSLY COMPLIANT WITH THE MANDATE OF THE LAW.  
12 THANK YOU.

13 CHAIRMAN EATON: MR. NEWTON, THE LAST  
14 TIME YOU WERE HERE -- AND I REMEMBER THE  
15 CONVERSATION THAT WE HAD GENERALLY -- WERE YOU  
16 JUST OPPOSED TO AUDITS WITH REGARD TO EACH OF THE  
17 CATEGORIES? IS THAT CORRECT? THAT THERE WOULD  
18 BE NO CATEGORIES BY WHICH AUDITS WERE WARRANTED?  
19 MR. NEWTON: NO. I BELIEVE THAT IF THERE  
20 ARE REASONS TO BELIEVE THAT PEOPLE ARE NOT  
21 COMPLYING WITH THE PROGRAM, OR IF THEY ARE FILING  
22 FALSE FORMS, THEN THAT'S AN APPROPRIATE PURPOSE  
23 TO AUDIT.  
24 BUT MY UNDERSTANDING IS, IS THAT  
25 WE'RE AT 55 PERCENT COMPLIANCE AS AN INDUSTRY,

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1 INCLUDING THE PRINTING INDUSTRIES --

2 CHAIRMAN EATON: I'M NOT TRYING TO PUT

3 YOU ON THE SPOT.

4 MR. NEWTON: SURE.

5 CHAIRMAN EATON: BUT I REMEMBER THAT YOU

6 WERE NOT OPPOSED TO A PARTICULAR TYPE OF AUDIT

7 AND, THEREFORE, YOU RECOMMENDED OUR A.3, WHICH

8 BASICALLY WOULD BE NO AUDITS THIS YEAR, AND THEN

9 A.2 ACTUALLY FILES A QUESTIONABLE CERT. SO I'M

10 JUST TRYING TO FRAME THE ISSUE FOR THE BOARD AND

11 PRESENT THOSE OPTIONS.

12 OPTION ONE WOULD BE THE STATUS QUO,

13 OPTION TWO IS KIND OF WHAT YOU HAD SAID YOUR

14 POSITION WITH REGARD TO MAYBE QUESTIONABLE

15 CERTIFICATIONS, AND THEN OPTION THREE IS JUST

16 RESCINDING THAT FOR THE YEAR 1997, WE WOULDN'T

17 HAVE ANY AUDITS AT ALL.

18 AND THAT'S WHY I JUST -- FRAMING THE

19 ISSUE FOR ANY FELLOW BOARD MEMBERS. AND I JUST

20 DIDN'T WANT TO PUT WORDS IN YOUR MOUTH, BUT I

21 REMEMBER YOU SAYING THAT -- THAT YOU WERE VERY

22 GRACIOUS IN SAYING THERE ARE CERTAIN

23 CIRCUMSTANCES WHEREBY WHICH THEY'RE WARRANTED,

24 AND I JUST WANTED TO MAKE SURE THAT -- BEFORE WE

25 VOTED THAT THAT WAS THE CASE.

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1 SO I'LL ENTERTAIN A MOTION ON ANY OF

2 THE THREE RECOMMENDED OPTIONS.

3 MEMBER FRAZEE: MR. CHAIRMAN?

4 CHAIRMAN EATON: MR. FRAZEE.

5 MEMBER FRAZEE: JUST TO COMMENT, I

6 BELIEVE THAT WE SHOULD TAKE BOTH OPTIONS TWO AND

7 THREE, THAT WE SHOULD CONTINUE WITH THE -- DOWN

8 THE ROAD WITH AUDITING THE QUESTIONABLE ONES, AS

9 WELL AS ESTABLISH A PENALTY POLICY FOR THE LATE

10 FILERS. I SEE THOSE AS TWO SEPARATE ITEMS.

11 CHAIRMAN EATON: MR. PENNINGTON, I

12 BELIEVE YOU ALSO HAD A COMMENT.

13 MEMBER PENNINGTON: I'D LIKE TO MOVE THAT

14 WE CONCUR WITH STAFF RECOMMENDATION A.3, ADOPT

15 RESOLUTION 1999-83, TO RESCIND THE PORTION OF THE

16 AUGUST 13TH, 1998, ACTION REGARDING AUDITS OF

17 NEWSPRINT CONSUMERS FOR THE 1997 COMPLIANCE YEAR

18 AND, INSTEAD, RELY ON THE ESTABLISHMENT OF A

19 PENALTY STRUCTURE TO REDUCE THE NUMBER OF LATE

20 CERTIFICATIONS IN THE FUTURE.

21 CHAIRMAN EATON: ALL RIGHTY. DO WE HAVE

22 A SECOND WITH REGARD TO THAT MOTION?

23 OR DO YOU WANT TO MAKE A -- AMEND THE

24 MOTION?

25 MEMBER FRAZEE: WELL, I WANT TO AMEND BUT



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1 YOU NEED A SECOND.

2 CHAIRMAN EATON: RIGHT. RIGHT. DO WE

3 HAVE A SECOND WITH REGARD TO MR. PENNINGTON'S

4 MOTION?

5 MEMBER PENNINGTON: I'M SORRY, COULD YOU

6 REPEAT THAT?

7 CHAIRMAN EATON: NO. I MEAN, YOU MADE

8 THE MOTION WITH REGARD TO 1999-83.

9 MEMBER PENNINGTON: RIGHT.

10 CHAIRMAN EATON: YES?

11 MEMBER ROBERTI: ON THE MOTION, I THINK MY

12 REFERENCE IS ON MR. FRAZEE'S SUGGESTION --

13 MEMBER PENNINGTON: I'M SORRY, I DIDN'T

14 HEAR --

15 MEMBER ROBERTI: -- IF THAT SHOULD FAIL,

16 THEN I'D BE GLAD TO --

17 CHAIRMAN EATON: I THINK MR. FRAZEE SAID

18 HE WOULD LIKE TO HAVE A SECOND BEFORE HE AMENDS

19 IT.

20 IS THAT CORRECT?

21 MEMBER FRAZEE: WELL, I THINK THAT'S THE

22 PROCEDURE.

23 CHAIRMAN EATON: THAT'S PROPER PROCEDURE,

24 WE HAVE TO --

25 MEMBER FRAZEE: YES.

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1 MEMBER ROBERTI: BUT WE'RE ON PENNINGTON.  
2 MEMBER FRAZEE: YES.  
3 CHAIRMAN EATON: CORRECT.  
4 MEMBER PENNINGTON: RIGHT.  
5 CHAIRMAN EATON: SO WE HAVE A SECOND, AND  
6 THEN MR. FRAZEE --  
7 MEMBER FRAZEE: I GUESS THERE'S NOTHING  
8 WRONG WITH ME SECONDING THE MOTION AND THEN  
9 MAKING --  
10 CHAIRMAN EATON: CORRECT.  
11 MEMBER FRAZEE: -- A MOTION TO AMEND IS  
12 THERE?  
13 CHAIRMAN EATON: CORRECT.  
14 MEMBER PENNINGTON: NO, THAT'S FINE. I  
15 DIDN'T HEAR WHAT YOU HAD SAID, THAT WAS IT.  
16 MEMBER FRAZEE: OKAY. WELL, I'M GOING TO  
17 SECOND THE MOTION, AND THEN MOVE TO ALSO INCLUDE  
18 WITHIN THAT MOTION THE DECISION TO AUDIT  
19 CONSUMERS WHO FILED QUESTIONABLE CERTIFICATIONS.  
20 MEMBER PENNINGTON: FINE.  
21 CHAIRMAN EATON: IS THERE ANY OBJECTION  
22 TO THAT?  
23 THEN PERHAPS, MR. PENNINGTON, YOU'D  
24 LIKE TO RESTATE THE MOTION --  
25 MEMBER PENNINGTON: SURE.

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1 CHAIRMAN EATON: -- AS PRESENTLY BEFORE

2 Us.

3 MEMBER PENNINGTON: SURE. I MOVE THAT WE

4 ACCEPT STAFF RECOMMENDATION A.2 AND A.3, AND

5 ADOPT RESOLUTION -- OR, AMEND RESOLUTION 99-83,

6 TO RESCIND THE PORTION OF AUGUST 13, 1998, ACTION

7 REGARDING AUDITS OF NEWSPRINT CONSUMERS FOR '97

8 COMPLIANCE, AND INSTEAD RELY ON THE ESTABLISHMENT

9 OF A PENALTY STRUCTURE TO REDUCE THE NUMBER OF

10 LATE CERTIFICATIONS IN THE FUTURE.

11 CHAIRMAN EATON: AND WITH THE AMENDMENT

12 THAT -- WITH REGARD TO COMPLIANCE.

13 MEMBER PENNINGTON: RIGHT, I SAID A.2.

14 CHAIRMAN EATON: RIGHT. CORRECT. OKAY.

15 A SECOND ON THAT?

16 MEMBER FRAZEE: I'LL SECOND THAT NOW.

17 CHAIRMAN EATON: ALL RIGHTY. WITHOUT

18 OBJECTION, MADAM SECRETARY, WOULD YOU PLEASE CALL

19 THE ROLL?

20 THE SECRETARY: BOARD MEMBERS FRAZEE?

21 MEMBER FRAZEE: AYE.

22 THE SECRETARY: JONES?

23 MEMBER JONES: AYE.

24 THE SECRETARY: PENNINGTON?

25 MEMBER PENNINGTON: AYE.

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1 THE SECRETARY: ROBERTI?  
2 MEMBER ROBERTI: AYE.  
3 THE SECRETARY: CHAIRMAN EATON?  
4 CHAIRMAN EATON: AYE.  
5 MOTION PASSES.  
6 ITEM 3.  
7 MS. TRGOVCICH: MR. CHAIRMAN, I BELIEVE  
8 THERE IS A SECOND PORTION TO THIS ITEM --  
9 CHAIRMAN EATON: I'M SORRY.  
10 MS. TRGOVCICH: -- WHICH IS THE PENALTY  
11 FRAMEWORK. AND VERY BRIEFLY --  
12 CHAIRMAN EATON: I TRIED TO HELP YOU, MR.  
13 NEWTON.  
14 MS. TRGOVCICH: VERY BRIEFLY, WE WILL BE  
15 PRESENTING A RANGE OF OPTIONS THAT WILL INITIATE  
16 A FINE STRUCTURE FOR LATE FILERS.  
17 AS YOU ALL HAVE STATED UP HERE ON THE  
18 DAIS TODAY, AS WELL AS LAST AUGUST, THE -- YOUR  
19 DESIRE TO SEE THE NUMBER OF LATE FILERS DROP  
20 WOULD BE RESPONDED TO WITH A PENALTY FRAMEWORK  
21 THAT WOULD SERVE AS AN INCENTIVE FOR THOSE  
22 INDIVIDUALS OR THOSE COMPANIES TO FILE BY THE  
23 MARCH 1 DEADLINE.  
24 THERE ARE A RANGE OF APPROACHES THAT  
25 ARE INCLUDED WHICH COVER INDIVIDUAL HEARINGS AND

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1 ASSESSMENTS WHICH WILL BE DISCUSSED AS ONE OF THE  
2 OPTIONS BY THE BOARD FOR EACH LATE FILER TO A  
3 REGULATORY STRUCTURE THAT WOULD ESTABLISH VERY  
4 CLEAN BREAKPOINTS FOR PENALTY ASSESSMENT THAT  
5 COULD BE ADMINISTERED BY THE STAFF POTENTIALLY,  
6 WITH AN APPEAL OR HEARING BY THE BOARD IF IT IS  
7 APPEALED BY THE CONSUMER OF NEWSPRINT. SO WE  
8 WILL BE DESCRIBING THOSE OPTIONS FOR YOU.  
9 PLEASE NOTE THAT SOME OF THESE  
10 OPTIONS ARE APPLICABLE TO CALENDAR YEAR '98  
11 CERTIFICATIONS AND BEYOND. AND SOME OF THESE  
12 OPTIONS WILL ONLY BE APPLICABLE TO CALENDAR YEAR  
13 '99 CERTIFICATIONS AND BEYOND.  
14 AND I WILL ASK RICK TO SUMMARIZE  
15 THOSE OPTIONS.  
16 MR. MUELER: YES. I'D LIKE TO MAKE THREE  
17 INTRODUCTORY REMARKS ABOUT THESE FOUR OPTIONS.  
18 FIRST, THE BOARD ALREADY HAS THE  
19 STATUTORY TO ASSESS UP TO A \$1,000 FINE ON EACH  
20 VIOLATION ON LATE FILERS AND DELINQUENT FILERS.  
21 HOWEVER, ALL FINES ASSESSED BY THE  
22 BOARD MUST BE PURSUANT TO NOTICE AND HEARING, AND  
23 THAT'S ALSO IN THE STATUTE.  
24 THE THIRD POINT IS, THAT STAFF HAS  
25 LOOKED AT VARIOUS APPROACHES TO ASSESS FINES

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1 AGAINST LATE FILERS. WE HAVE FOUR OPTIONS THAT  
2 WE'RE BRINGING FORWARD, BUT THERE ARE REALLY ONLY  
3 TWO FUNDAMENTAL WAYS TO PROCEED. OPTION B.1 IS  
4 THE APPROACH WITHOUT REGULATIONS, AND OPTIONS B.2  
5 THROUGH 3.4 ARE OPTIONS WITH REGULATIONS, OR WITH  
6 PROMULGATING REGULATIONS. SO I HAVE THESE FOUR  
7 OPTIONS ON THE OVERHEAD.

8 CHAIRMAN EATON: ANY QUESTIONS OF RICK?

9 MEMBER FRAZEE: YES, MR. CHAIRMAN.

10 CHAIRMAN EATON: SURE, MR. FRAZEE.

11 MEMBER FRAZEE: THE APPROACH THAT WE'RE  
12 TAKING HERE IN ADOPTING -- OR, ONE OF THE OPTIONS  
13 IS TO ADOPT REGULATIONS. AND I WOULD JUST HAVE  
14 TO QUESTION THE TIMING OF THAT WHETHER OR NOT -- 15 EVEN WITH  
EMERGENCY ADOPTIONS WE CAN EFFECT A  
16 FILING THAT WILL BE DELINQUENT ON MARCH 1ST, AND  
17 THE TIMING OF GETTING THIS DONE AND GETTING THAT  
18 INTO EFFECT.

19 WOULDN'T WE BE BETTER OFF TO ADOPT  
20 REGULATIONS THAT WOULD AFFECT THE 1999 YEAR,  
21 AND...?

22 MS. TRGOVCICH: FOR PURPOSES OF THE  
23 EMERGENCY REGULATIONS -- AND RICK CAN BRIEFLY  
24 SUMMARIZE THE FOUR OPTIONS FOR YOU, BUT I'LL JUMP  
25 IN HERE. THE EMERGENCY REGULATIONS COULD BE

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1 ADOPTED WITH A PROVISION STATING THAT THE PERIOD  
2 FOR WHICH THE LATE FINES WOULD BE ASSESSED --  
3 MEANING THE BEGINNING OF THE 45-DAY PERIOD --  
4 WOULD NOT COMMENCE UNTIL OAL APPROVED THE  
5 REGULATORY PACKAGE AND IT WAS FILED WITH THE  
6 SECRETARY OF STATE.  
7 SO THAT IN EFFECT, THE OPTION TO  
8 ADOPT THE EMERGENCY REGULATIONS WOULD AFFECT  
9 CALENDAR YEAR '98, BUT COULD, IN ITS OWN RESPECT,  
10 EXTEND THE MARCH 1 DEADLINE TO A DATE BEYOND  
11 THAT, WHICH WOULD BE THE POINT IN TIME THAT THE  
12 REGULATIONS ARE FILED.  
13 THE FORMAL RULE-MAKING PROCESS, YOU  
14 ARE VERY CORRECT THAT THAT COULD NOT AFFECT  
15 CALENDAR YEAR '98 FILINGS. IT'S ESTIMATED THAT A  
16 FORMAL RULE-MAKING PROCESS WOULD LIKELY TAKE  
17 SOMEWHERE AROUND THE FOUR- TO SIX-MONTH TIME  
18 PERIOD, AND SO WE WOULD BE LOOKING AT THAT OPTION  
19 TO BE AFFECTING THE 1999 SUBMITTALS AND BEYOND.  
20 WOULD YOU LIKE RICK TO BRIEFLY  
21 SUMMARIZE OPTIONS B.1 THROUGH B.4?  
22           MEMBER FRAZEE: LET ME JUST FINISH MY  
23 POINT HERE IF I COULD. THE ADMINISTRATIVE  
24 OPTION, B.1, ARE WE RUNNING THE RISK OF THAT  
25 BEING CHALLENGED AS AN UNDERGROUND REGULATION

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1 RATHER THAN POLICY?  
2 IF THERE IS AN OPTION THAT YOU CAN  
3 ADOPT THIS BY REGULATION, THEN IF YOU'RE NOT  
4 DOING IT BY REGULATION -- IT SEEMS WE'VE BEEN  
5 DOWN THAT PATH BEFORE -- THAT WE COULD BE SUBJECT  
6 TO CHALLENGE.  
7 MS. TRGOVCICH: I WILL DEFER THAT  
8 QUESTION TO LEGAL COUNSEL. BUT WHAT I WILL SAY  
9 IS, THE FUNDAMENTAL DIFFERENCE BETWEEN ADOPTING  
10 THE PENALTY FRAMEWORK AS CRITERIA VERSUS AS A  
11 PENALTY STRUCTURE LIES IN WHETHER OR NOT YOU USE  
12 THE SAME CRITERIA FOR MORE -- AND ASSESS THE  
13 PENALTIES IN THE SAME WAY FOR MORE THAN ONE  
14 CONSUMER OF NEWSPRINT.  
15 SO THAT IF THE BOARD WERE TO  
16 INDIVIDUALLY HEAR THE PENALTY ASSESSMENT, AND  
17 MAKE A DETERMINATION ON WHAT THE PENALTY LEVEL  
18 WOULD BE INDIVIDUALLY FOR EACH LATE FILER ON ITS  
19 OWN MERITS, THEN THAT WOULD LIKELY NOT BE  
20 CONSIDERED AN UNDERGROUND REGULATION.  
21 BUT IF YOU APPLY THE SAME CRITERIA  
22 OVER AND OVER TO CONSUMERS OF NEWSPRINT, COMING  
23 UP WITH THE SAME PENALTY, THEN THAT WOULD BE A  
24 STANDARD THAT YOU WOULD APPLY TO MORE THAN ONE  
25 ENTITY, AND IT WOULD NEED TO BE SUBJECT TO THE



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1 ADMINISTRATIVE PROCEDURES ACT, SO THAT THEY WOULD  
2 HAVE AN OPPORTUNITY TO COMMENT ON THE CRITERIA  
3 THAT YOU SET.

4 MS. TOBIAS: I AGREE WITH THAT IN  
5 ESSENCE. I THINK THIS IS THE SAME SITUATION WE  
6 RAN INTO WITH THE UNRELIABLE CONTRACTOR  
7 SITUATION. WE CAN DO THOSE EACH INDIVIDUALLY  
8 EACH TIME. THERE'S A TIME-SAVING AND A, YOU  
9 KNOW, I THINK A SENSE OF BEING ABLE TO TREAT  
10 THINGS MORE FAIRLY IF YOU CAN ADOPT YOUR WHOLE  
11 STRUCTURE AT ONE TIME AND SAY THIS IS WHAT WE'RE  
12 GOING TO DO IN THE FUTURE, BUT THAT DOESN'T STOP  
13 YOU FROM DOING IT EACH TIME INDIVIDUALLY.

14 I ALSO THINK THERE'S AN ISSUE AS TO  
15 WHETHER -- TO ADDRESS YOUR FIRST QUESTION, MR.  
16 FRAZEE -- AS TO WHEN YOU ADOPT REGULATIONS, AND  
17 WHAT EFFECT THAT WOULD HAVE. YOU KNOW, COULD  
18 YOU, IN ESSENCE, GO BACKWARDS AND PICK UP THOSE  
19 LATE FILERS.

20 AND I THINK ARGUABLY THAT -- THE FACT  
21 IS THAT THE LAW ALREADY SPECIFIES A PENALTY.  
22 THIS IS SIMPLY BRINGING FORWARD THE PROCEDURE BY  
23 WHICH WE'RE GOING TO DO THAT.  
24 SO, ALTHOUGH I'M NOT GOING TO SAY  
25 THAT THERE WOULDN'T BE A CHALLENGE TO PICKING UP

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1 LATE FILERS, YOU KNOW, IN THE PAST, I THINK WHAT  
2 THE BOARD IS DOING AT THIS POINT IS LAYING OUT  
3 SIMPLY A PROCEDURE. I THINK LATE FILERS ALREADY  
4 KNOW THERE'S GOING TO BE A PENALTY.  
5 50, IT'S NOT AS IF THE BOARD IS  
6 SAYING, DARN IT, YOU KNOW, PEOPLE DIDN'T FILE ON  
7 TIME, LET'S GO BACK AND, YOU KNOW, GET THOSE LATE  
8 FILERS. WHAT THE BOARD'S REALLY SAYING IS, IT'S  
9 NOW TIME TO DEAL WITH THAT, HERE'S THE PROCEDURE  
10 BY WHICH WE'RE GOING TO DO IT. I THINK IT'S AN  
11 ARGUABLE POINT, BUT I THINK THERE IS THE ABILITY  
12 TO GO BACK AND DO THAT.

13           MEMBER FRAZEE: IS THERE ANY DANGER IN  
14 BIFURCATING THIS PROCESS AND APPLYING THE  
15 ADMINISTRATIVE REMEDY TO THE '98 LATE FILERS, AND  
16 AT THE SAME TIME PROCEEDING WITH A REGULATION  
17 PACKAGE THAT WOULD DO IT FOR THE '99 LATE FILERS,  
18 AND SKIP THE EMERGENCY REGULATION ALL TOGETHER?

19           MS. TOBIAS: WELL, I THINK THAT WHENEVER  
20 YOU DECIDE TO DO SOMETHING DIFFERENT TO PEOPLE  
21 WHO ARE IN THE SAME SITUATION YOU RAISE THAT  
22 ISSUE OF, YOU KNOW, IS THERE A FAIRNESS ISSUE.  
23 THINK IF THERE'S A REASON TO DO -- TO SAY HERE'S  
24 THE PROCEDURE FOR WHAT IT IS, BUT NOW THE BOARD  
25 HAS DECIDED INSTEAD OF GOING BACK AND PENALIZING

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1 PEOPLE, WHAT THERE IS, IS GOING TO BE A DIFFERENT  
2 PROCEDURE FOR DEALING WITH THEM IN THE FUTURE --  
3 I THINK AS LONG AS YOU'VE MADE YOUR FINDINGS AND  
4 YOU HAVE SUBSTANTIAL EVIDENCE IN THE RECORD AS TO  
5 WHY YOU'RE NOW MAKING THAT BREAK AND YOU WANT TO  
6 GO IN A DIFFERENT DIRECTION, I THINK THAT WOULD  
7 BE SATISFACTORY.

8 MS. TRGOVCICH: MEMBER FRAZEE, OPTION B.4  
9 WOULD IN FACT BIFURCATE THE PROCESS. AND WHAT IT  
10 WOULD RECOMMEND IS THAT FOR THE '98 COMPLIANCE  
11 YEAR, THAT YOU APPROVE THE PENALTY CRITERIA. SO  
12 THIS BOARD WOULD BE INITIATING INDIVIDUAL  
13 HEARINGS FOR EACH LATE FILER, AND ASSESSING IN  
14 THAT HEARING THE APPROPRIATE PENALTY LEVEL.  
15 AND IT WOULD ALSO TELL STAFF, FOR  
16 1999 AND BEYOND, INITIATE THE FORMAL RULE-MAKING  
17 PROCESS.

18 MEMBER FRAZEE: AND THEN UNDER THE FORMAL  
19 RULE-MAKING PROCESS THERE WOULD NOT BE A  
20 NECESSITY FOR HOLDING INDIVIDUAL HEARINGS, BUT  
21 YOU COULD JUST ADMINISTRATIVELY IMPOSE THOSE  
22 PENALTIES WITHOUT --

23 MS. TRGOVCICH: CORRECT.

24 MS. TOBIAS: IT DEPENDS ON WHICH OF THE  
25 OPTIONS YOU PICK, AND THERE DOES NOT --

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1           MEMBER FRAZEE: -- ONE THAT WAS LAID OUT  
2 IN B.4 --  
3           CHAIRMAN EATON: MR. JONES? OR, MR.  
4 PENNINGTON, THEN MR. JONES.  
5           MEMBER PENNINGTON: UNDER FOUR YOU'D BE  
6 ABLE TO DO THAT. YEAH.  
7           CHAIRMAN EATON: MR. JONES?  
8           MEMBER JONES: MR. CHAIRMAN, I THINK WE  
9 NEED TO LOOK AT THIS INDUSTRY AND WHAT THEY'RE  
10 DOING FOR POST-CONSUMER CONTENT MATERIALS. I  
11 THINK IT'S -- ISN'T THIS AN INDUSTRY THAT'S AT  
12 ABOUT 55 PERCENT RIGHT NOW OF RECOVERED PAPER  
13 THAT ARE GOING INTO THEIR PAPER AS NEW PRODUCT?  
14 I MEAN, 55 PERCENT OF WHAT'S BEING BILLED BY  
15 THOSE FOLKS IS RECYCLED CONTENT MATERIAL.  
16 WHAT WE'RE TRYING TO DO HERE IS TO  
17 MAKE THEM AWARE THAT THEY HAVE TO FILE ON TIME,  
18 JUST SO WE KNOW. I MEAN, THE FINE'S A GRAND,  
19 IT'S NOT WORTH A LAWYER TO COME UP HER FOR A  
20 GRAND.  
21 IT WOULD SEEM TO ME THAT A MESSAGE  
22 GOES OUT LOUD AND CLEAR IF WE DO B.1, AND HAVE 28  
23 ADMINISTRATIVE HEARINGS HERE ONE DAY, AND PUT  
24 SOME TIME -- \$500 OR \$1,000 IS CHUMP CHANGE. I  
25 MEAN, THIS -- YOU KNOW, I MEAN, THAT IS NOT THE

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1 ISSUE. THESE ARE NOT THE BAD GUYS, THESE ARE THE  
2 PEOPLE THAT ARE USING THE PRODUCT BUT THEY'RE A  
3 LITTLE TARDY. WHAT'S THE WORST THING THAT  
4 THEY'RE GOING TO WANT TO AVOID? COMING TO  
5 SACRAMENTO AND TELLING US WHY THEY'RE TARDY.  
6 WHAT'S THE RESULT GOING TO BE? THEY'RE PROBABLY  
7 GOING TO FILE ON TIME FROM NOW ON.  
8 THESE ARE NOT -- THE WHOLE -- YOU  
9 KNOW, THESE ARE NOT BAD PEOPLE. I'D JUST LIKE TO  
10 SEE US DO ADMINISTRATIVE HEARINGS AND GET THE  
11 MESSAGE OUT THERE, LET THEM KNOW. I MEAN, WE  
12 CAN'T KEEP BEATING UP THE PEOPLE THAT ARE DOING  
13 THE JOB, BUT THEY HAVE TO BE TIMELY.  
14 MEMBER PENNINGTON: MR. CHAIRMAN? I  
15 CERTAINLY AGREE WITH MR. JONES, THAT, YOU KNOW,  
16 OUGHT NOT TO BE BEATING UP WITH THESE PEOPLE,  
17 THEY'RE DOING THEIR JOB AND ALL THAT.  
18 I DO HAVE TO SAY THAT \$1,000 TO THE  
19 "MODESTO BEE" OR THE "SACRAMENTO BEE" OR THE  
20 "L.A. TIMES" IS NOTHING. TO THE "MOUNTAIN  
21 DEMOCRAT" IT COULD BE A SUBSTANTIAL FINE, AND  
22 CERTAINLY COULD CAUSE THEM TO GO OUT OF BUSINESS.  
23 SO, IT'S ALL RELATIVE TO HOW BIG THE -- AND OF  
24 COURSE THAT WOULD APPLY WITH THE PRINTERS, TOO.  
25 BUT I THINK, YOU KNOW, THEY'VE DONE A

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1 GOOD JOB AND....

2 MS. TRGOVCICH: MR. CHAIRMAN, JUST FOR

3 WAY OF COMPARISON, I BELIEVE THAT FOR CALENDAR

4 YEAR '97 WE HAD APPROXIMATELY 70 LATE FILERS.

5 MEMBER JONES: THAT IS CORRECT.

6 MS. TRGOVCICH: WHICH WOULD MEAN EITHER

7 UNDER OPTION B.1 OR B.4, FOR THE ADMINISTRATIVE

8 PORTION OF THAT, OR FOR THE PENALTY ASSESSMENT

9 PHASE FOR CALENDAR YEAR '98, IF WE ARE AT ALL

10 SIMILAR TO LAST YEAR THAT WILL MEAN APPROXIMATELY

11 70 INDIVIDUAL HEARINGS BEFORE THE BOARD.

12 MEMBER JONES: BUT WE CAN -- I MEAN,

13 WOULDN'T WE HAVE THE OPPORTUNITY -- YOU'VE GOT 70

14 -- YOU'VE GOT 28 THAT WERE OVER 45 DAYS, THAT'S

15 YOUR PROBLEM, RIGHT, IS THE 45-DAY FOLKS?

16 MS. TRGOVCICH: THE PROBLEM IS --

17 CORRECT, IT'S A GREATER PROBLEM WITH THE OVER-45

18 DAYS.

19 WHAT I DO NOT KNOW, AND WHAT I WOULD

20 ASK LEGAL COUNSEL, IS IF THE BOARD WERE TO CHOOSE

21 THE OPTION OF ESTABLISHING PENALTY CRITERIA AND

22 HOLDING INDIVIDUAL HEARINGS, IF YOU COULD SET A

23 CUTOFF BEYOND THE STATUTORY FILING DEADLINE FOR

24 BRINGING INDIVIDUAL LATE FILERS FORWARD.

25 MS. TOBIAS: I THINK THAT WOULD BE

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1 DIFFICULT. I THINK THAT THAT LOOKS ARBITRARY.  
2 DON'T KNOW, YOU'D HAVE TO TRY TO MAKE THE  
3 RATIONALE OF WHY IT MAKES A DIFFERENCE AT ONE  
4 POINT OR ANOTHER.  
5 YOU KNOW, IF YOU'RE DOING REGS YOU  
6 COULD PROBABLY DO THAT AND GIVE A REASON THAT  
7 THAT'S -- THOSE ARE REALLY THE PEOPLE THAT YOU  
8 PURSUED THE MOST HEAVILY OR SOMETHING LIKE THAT.  
9 BUT I THINK WHENEVER YOU DIFFERENTIATE AMONG  
10 PARTIES, WHEN THE STATUTE SPECIFIES A CERTAIN  
11 FILING DATE I THINK YOU RUN INTO MORE OF A -- THE  
12 POSSIBILITY OF A LEGAL CHALLENGED.

13 CHAIRMAN EATON: MR. NEWTON, THOUGHTS,  
14 COMMENTS? I NOTICE ON YOUR SUPPORT AND OPPOSE  
15 POSITION IT'S GOT TWO QUESTION MARKS, SO  
16 OBVIOUSLY.... V

17 MR. NEWTON: I THINK WE HAVE A COMMON  
18 GOAL HERE. AND THE COMMON GOAL, I BELIEVE, IS  
19 NOT TO FINE PEOPLE, BUT RATHER TO NUDGE FOLKS TO  
20 COMPLY IN A TIMELY MANNER.  
21 AND SO I THINK THE QUESTION, THE WAY  
22 I WOULD FRAME IT, IS WHAT'S THE BEST PROCESS FOR  
23 GETTING MY MEMBERS' ATTENTION. AND WE THOUGHT  
24 FINING WAS A MUCH BETTER WAY TO DO IT THAN  
25 AUDITING OTHERWISE COMPLIANT CONSUMERS OF

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1 NEWSPRINT.  
2 I'M NOT SURE I UNDERSTAND THIS  
3 TOTALLY. BUT IF YOU TAKE A LOOK AT B.4, IT  
4 APPEARS TO ME TO CREATE A TWO-STEP PROCESS. AND  
5 THAT IS, TO ALLOW THE PROPOSED PENALTY CRITERIA  
6 TO GO FORWARD FOR THIS REPORTING YEAR, WHILE  
7 SIMULTANEOUSLY A REGULATORY PROCESS WOULD GO  
8 FORWARD TO CREATE THE REGULATIONS THAT WOULD BE  
9 NECESSARY TO PUT THIS THING INTO PLACE  
10 PERMANENTLY.  
11 AND I SUSPECT THAT THE INITIAL EFFORT  
12 OF HAILING PEOPLE TO SACRAMENTO TO ANSWER AS TO  
13 WHY THEY SHOULD BE FINED OR NOT, AND THE -- I  
14 BELIEVE THE DISCRETION THAT THE BOARD WOULD HAVE  
15 AT THESE HEARINGS TO DETERMINE WHETHER A FINE IS  
16 WARRANTED, OR WHETHER THERE IS SUFFICIENT REMORSE  
17 OR OTHER EXTENUATING CIRCUMSTANCES THAT MIGHT  
18 HAVE THE BOARD SEE ITS WAY CLEAR TO AVOID THAT  
19 PENALTY. BUT I HAVE A FEELING THAT THAT WOULD  
20 PROBABLY DO IT, AT LEAST FOR THE CONSUMERS OF  
21 NEWSPRINT THAT I REPRESENT.  
22 I'M NOT SURE IF THAT WOULD SUBJECT  
23 THE BOARD TO INCREASED LIABILITY AS FAR AS A  
24 CHALLENGE GOES OR NOT.  
25 BUT, AS FAR AS MOVING PEOPLE FROM



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1 LATE FILERS TO NON-LATE FILERS, WHICH I THINK IS  
2 THE GOAL, THAT SEEMS TO ME TO BE AN EFFECTIVE WAY  
3 TO DO IT.

4 CHAIRMAN EATON: WHAT'S YOUR PLEASURE?

5 MEMBER PENNINGTON: WELL, MR. CHAIRMAN,  
6 I'LL MOVE THAT WE ACCEPT THE STAFF RECOMMENDATION  
7 OF ADOPTING, I THINK, B.4.

8 AND DO WE NEED TO ADOPT B.3, TOO,  
9 STAFF?

10 MR. MUELER: I THINK OPTION B.4  
11 INCORPORATES B.3 FOR THE '99 COMPLIANCE YEAR AND  
12 BEYOND.

13 MEMBER PENNINGTON: SO I'LL MOVE CONCUR  
14 WITH THE STAFF RECOMMENDATION TO ADOPT B.4, AND  
15 ADOPT RESOLUTION 1999-84.

16 CHAIRMAN EATON: DO WE HAVE A SECOND?

17 MEMBER JONES: SECOND.

18 CHAIRMAN EATON: ALL RIGHTY.

19 MEMBER JONES: CAN I ASK A QUESTION ON  
20 THE MOTION?

21 CHAIRMAN EATON: SURE. MR. JONES.

22 MEMBER JONES: THIS B.4 INCLUDES THE  
23 PENALTY CRITERIA FROM ONE. DOES IT INCLUDE THE  
24 ADMINISTRATIVE HEARINGS?

25 SO WE WOULD HAVE THE ADMINISTRATIVE

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1 HEARINGS HERE UNDER THIS ONE FOR THESE FOLKS?

2 MEMBER JONES: OKAY, THEN I'M FINE. I

3 THOUGHT IT DID, I JUST WANTED TO MAKE SURE. MS. TRGOVCICH: I WOULD

4 JUST LIKE TO

5 CORRECT, FOR THE RECORD, THAT THE STAFF

6 RECOMMENDATION WAS B.3, SO THAT THERE ISN'T

7 CONFUSION BETWEEN THE MOTION AND THE WRITTEN

8 ITEM. THE RESOLUTION.

9 MR. MUELER: MR. CHAIRMAN, I BELIEVE THE

10 RESOLUTION 99-84 ACTUALLY REFERS TO B.4 AS THE

11 CONTINGENCY OPTION, IF WE DON'T -- IF WE CAN'T DO

12 EMERGENCY REGULATIONS.

13 MEMBER JONES: CORRECT. SO THAT'S WHAT'S

14 PROPOSED, IS B.4.

15 CHAIRMAN EATON: THAT'S WHAT'S PROPOSED,

16 AT LEAST AS I HEARD MR. PENNINGTON STATE HIS

17 MOTION --

18 MEMBER PENNINGTON: RIGHT.

19 CHAIRMAN EATON: -- IF I'M NOT MISTAKEN.

20 MEMBER FRAZEE: MR. CHAIRMAN?

21 CHAIRMAN EATON: MR. FRAZEE.

22 MEMBER FRAZEE: LET ME JUST EXPRESS ONE

23 CONCERN, AND NOT REALLY IN OPPOSITION TO THE PATH

24 THAT WE'RE TAKING. BUT IN LOOKING AT THE TIMING

25 OF THIS, AND KEEPING IN MIND THAT THE GOAL IS

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1 COMPLIANCE, BEFORE THE WORD GETS OUT TO THE  
2 INDUSTRY THAT WE'RE GOING TO BE IMPOSING FINES  
3 THERE -- THOSE THAT ARE GOING TO BE IN VIOLATION  
4 ARE ALREADY IN VIOLATION, SO YOU REALLY HAVEN'T  
5 DONE ANYTHING TO PROMPT THOSE TO GET ON.  
6 50 IT MAY TAKE A LITTLE LEEWAY FOR  
7 THE BOARD IN DEFINING THE DIFFERENCE BETWEEN  
8 THOSE THAT ARE ONLY TWO WEEKS LATE AND THOSE THAT  
9 ARE 90 DAYS LATE.  
10 AND I WONDER IF THERE'S SOME  
11 DISCRETION ON THE PART -- OR, DO WE HAVE TO TREAT  
12 THEM ALL EQUALLY?  
13 MS. TRGOVCICH: WHAT I WOULD ASK LEGAL  
14 COUNSEL, AGAIN, FOLLOWING ON THE LAST QUESTION,  
15 IS WOULD THE DEGREE OF LATENESS -- OUR DISCUSSION  
16 WAS THAT THE DEGREE OF LATENESS COULD NOT  
17 NECESSARILY BE A POINT AT WHICH WE COULD  
18 DETERMINE WHICH CONSUMERS CAME FORWARD FOR  
19 HEARING. BUT IT COULD BE AN ELEMENT THAT YOU  
20 CONSIDER IN YOUR DECISION-MAKING PROCESS ON  
21 WHETHER OR NOT TO ASSESS A PENALTY AND AT WHAT  
22 LEVEL.

23 CHAIRMAN EATON: MR. NEWTON, LET ME ASK A  
24 QUESTION BEFORE WE ACT UP ON THE MOTION. DO YOU  
25 HAVE AN ANNUAL, OR A SEMI-ANNUAL, OR A QUARTERLY

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1 MEETING THAT'S SCHEDULED FOR THIS YEAR WHERE A  
2 GREAT DEAL OF YOUR MEMBERSHIP IS PRESENT?  
3 MR. NEWTON: MARCH 17TH.  
4 CHAIRMAN EATON: MARCH 17TH.  
5 MR. NEWTON: A QUARTERLY MEETING.  
6 CHAIRMAN EATON: WOULD IT BE HELPFUL IF  
7 WE ASKED OR DIRECTED STAFF TO MAYBE COME DOWN AND  
8 WORK WITH YOU, AND MAKE A PRESENTATION ON THIS  
9 REGARD? ASSUMING, OF COURSE, THAT YOU'LL PROVIDE  
10 ADEQUATE SECURITY SO THEY CAN GET OUT OF THAT  
11 MEETING, OF COURSE.  
12 AND I DON'T MEAN TO DO IT, BUT I  
13 THINK FOLLOWING UP ON MR. FRAZEE'S POINT -- I  
14 THINK YOU WERE TALKING ONE OF NOTICE, IF I'M NOT  
15 MISTAKEN, AND THOSE KINDS OF THING. BUT I THINK,  
16 YOU KNOW, THIS BOARD HAS ALWAYS TRIED TO ACT  
17 COOPERATIVELY, AND I DON'T WANT TO ADD TO THE  
18 STAFF -- BUT I THINK IT IS IMPORTANT, IF WE DO GO  
19 THERE AND TALK TO THE MEMBERS -- AND OBVIOUSLY  
20 YOU'VE DONE WELL TODAY -- IF YOU THINK THAT WOULD  
21 BE HELPFUL AS WELL.  
22 MR. NEWTON: THERE'S USUALLY QUITE A TIME  
23 CRUNCH AT THESE MEETINGS AS FAR AS GETTING THESE  
24 VERY BUSY PEOPLE'S ATTENTION.  
25 BUT I HAVE, ON THE OTHER HAND, FOR

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1 THE LAST YEAR AND A HALF --

2 CHAIRMAN EATON: YOU AGREE WITH MR. JONES

3 THAT THE THOUSAND DOLLARS WOULDN'T CATCH THEIR

4 ATTENTION.

5 MR. NEWTON: IT WOULD, I THINK. I

6 BELIEVE IT WOULD, BY THE WAY.

7 BUT WE HAVE, FOR THE LAST YEAR AND A

8 HALF, BEEN ATTEMPTING TO PUT THIS ISSUE IN OUR

9 BULLETINS, WE'VE BEEN ADDRESSING IT AT EVERY

10 BOARD MEETING. AT OUR LAST BOARD MEETING WE

11 TALKED ABOUT THE POTENTIAL FOR FINES FOR NON-

12 COMPLIANCE.

13 AND THE -- BY THE WAY, THE READING

14 THAT STAFF RECEIVED FROM THOSE MEETINGS IS THAT

15 PEOPLE WHO FILE LATE OUGHT TO BE FINED. THAT WE

16 -- THAT CNPA SHOULD NOT WASTE ANY OF ITS

17 POLITICAL CAPITAL IN AN ATTEMPT TO PREVENT PEOPLE

18 WHO CAN'T FILE THAT FORM FROM BEING FINED. AND

19 SO THAT'S WHAT -- THE MESSAGE FOR THOSE PEOPLE IS

20 LOUD AND CLEAR, GET YOUR FORM IN ON TIME.

21 AND I WILL CONTINUE TO SCHEDULE THIS

22 AS AN ITEM AT OUR BOARD MEETING ON THE 17TH, AND

23 DO THAT. AND I'M NOT SURE I NEED STAFF'S

24 ASSISTANCE ON THAT. AND WE -- THAT WOULD SET A

25 BIT OF A PRECEDENT.

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1 CHAIRMAN EATON: OKAY.  
2 MR. NEWTON: THANK YOU.  
3 CHAIRMAN EATON: I HAVE A MOTION AND A  
4 SECOND. HAVING NO FURTHER DISCUSSION, MADAM  
5 SECRETARY, WILL YOU PLEASE CALL THE ROLL?  
6 THE SECRETARY: BOARD MEMBERS FRAZEE?  
7 MEMBER FRAZEE: AYE.  
8 THE SECRETARY: JONES?  
9 MEMBER JONES: AYE.  
10 THE SECRETARY: PENNINGTON?  
11 MEMBER PENNINGTON: AYE.  
12 THE SECRETARY: ROBERTI?  
13 MEMBER ROBERTI: AYE.  
14 THE SECRETARY: CHAIRMAN EATON?  
15 CHAIRMAN EATON: AYE.  
16 MOTION PASSES.  
17 ITEM NO. 3: CONSIDERATION OF APPROVAL OF  
18 THE RECYCLING MARKET DEVELOPMENT LOAN PROGRAM  
19 APPLICATION FOR ROMAC SUPPLY COMPANY, INC.  
20 CHAIRMAN EATON: THE NEXT ITEMS ARE THREE  
21 AND FOUR, WHICH WILL BE VERY QUICK, AND THEN  
22 WE'LL TAKE A FIVE-MINUTE BREAK. SO WITH THAT IN  
23 MIND, IF THOSE PRESENTING ITEMS 3 AND 4 CAN DO SO  
24 QUICKLY AND SUCCINCTLY THAT WOULD BE GREATLY  
25 APPRECIATED BY BOTH THE BOARD, MEMBERS OF THE

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1 AUDIENCE, AND OUR COURT REPORTER. THANK YOU.

2 MS. TRGOVCICH: WOULD YOU LIKE TO PROCEED

3 WITH ITEM 3 AT THIS POINT?

4 CHAIRMAN EATON: PLEASE.

5 MS. TRGOVCICH: OKAY. ITEM 3 IS

6 CONSIDERATION OF APPROVAL OF THE RECYCLING MARKET

7 DEVELOPMENT LOAN PROGRAM APPLICATION FOR ROMAC

8 SUPPLY COMPANY, INC. THE PRESENTATION FOR THIS

9 LOAN WILL BE MADE BY JEFFREY INGLES, ONE OF OUR

10 LOAN OFFICERS IN THE PROGRAM.

11 I WOULD LIKE TO JUST POINT OUT FOR

12 YOUR NOTICE, AS WELL AS THE AUDIENCE NOTICE, THAT

13 WE HAVE RECENTLY CALCULATED THE NEW INTEREST RATE

14 FOR THE LOAN PROGRAM. SEMIANNUALLY WE PUBLICLY

15 ANNOUNCE THE INTEREST RATE AND, AS YOU ARE AWARE,

16 IT'S TIED TO THE SURPLUS MONEY INVESTMENT FUND.

17 THE NEW RATE AS IT IS SET WILL BE 5.6 PERCENT FOR

18 THE PERIOD ENDING JUNE 30TH, 1999. THAT IS A

19 DROP FROM 5.7 PERCENT FOR THE PERIOD ENDING

20 DECEMBER 31 OF 1998.

21 AND SECONDLY, JUST TO POINT OUT FOR

22 YOUR BENEFIT, AS WELL AS THE AUDIENCE, THAT IN

23 JANUARY WE CLOSED LOANS FOR FISCAL YEAR 1998-99

24 IN AN AMOUNT TO EXCEED THE \$5 MILLION TRANSFER

25 WHICH IS MADE FOR THIS PROGRAM ON AN ANNUAL BASIS

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1 THROUGH THE BUDGET ACT.  
2 AND WITH THAT I'D LIKE TO TURN THE  
3 PRESENTATION OVER TO JEFF INGLES.  
4 MR. INGLES: THANK YOU, CAREN.  
5 CHAIRMAN EATON, BOARD MEMBER, GENERAL  
6 AUDIENCE AND BOARD STAFF, I'M PLEASED TO PRESENT  
7 ROMAC SUPPLY COMPANY, INC., WHO ARE REQUESTING A  
8 LOAN AMOUNT OF \$1 MILLION FOR THE PURCHASE OF NEW  
9 EQUIPMENT, LEASEHOLD IMPROVEMENTS, AND INVENTORY.  
10 THE TERM WILL BE 120 MONTHS, FULLY  
11 AMORTIZED, AND SECURED BY A FIRST DEED OF TRUST  
12 ON COMMERCIAL PROPERTY.  
13 OUR DIVERSION FOR THIS PROJECT WILL  
14 BE AN INCREASE OF CURRENT DIVERSION FOR A TOTAL  
15 OF 200,000 TOTAL TONS PER YEAR.  
16 ROMAC SUPPLY COMPANY HAS REQUESTED  
17 THESE FUNDS, AGAIN, FOR PURCHASE OF EQUIPMENT,  
18 WORKING CAPITAL, AND LEASEHOLD IMPROVEMENTS.  
19 IT'S PROJECT IS ELIGIBLE UNDER A REUSE, TAKING A  
20 PRODUCT WHICH HAS SERVED ITS USEFUL LIFE AND  
21 PROVIDING NEW VALUE.  
22 ROMAC SUPPLY COMPANY IS A LEADER IN  
23 THE REMANUFACTURING OF ELECTRICAL EQUIPMENT  
24 HEADQUARTERED IN COMMERCE, CALIFORNIA. ROMAC  
25 PRODUCES A VARIETY OF PRODUCTS. WHERE THEY



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1 RECEIVE THEIR FEED STOCK IS FROM DEMOLITION JOBS,  
2 PLANT CLOSURES, LIQUIDATIONS, ETC. THE TYPE OF  
3 RECOVERED MATERIAL INCLUDES FIBERGLASS, PLASTIC,  
4 PAPER, WOOD, ETC. AND THESE PERCENTAGE AMOUNTS  
5 WILL VARY FROM PRODUCT TO PRODUCT.

6 AND THAT CONCLUDES MY REPORT.

7 CHAIRMAN EATON: ANY DISCUSSION? MR.  
8 FRAZEE.

9 MEMBER FRAZEE: JUST A QUESTION. DOES  
10 SECURITY ON THIS LOAN INCLUDE BOTH REAL PROPERTY  
11 AND EQUIPMENT?

12 MR. INGLES: IF NECESSARY, YES. BUT, NO,  
13 THIS PROPERTY WILL APPRAISE -- IT'S CURRENTLY --  
14 WELL, WE'LL TAKE FIRST LIEN POSITION ON  
15 COMMERCIAL PROPERTY, VALUED 15 YEARS AGO AT 2.8  
16 MILLION, THE NEW APPRAISAL SHOULD COME IN WELL  
17 ABOVE THAT. WHICH MEANS OUR GUIDELINES OF 70  
18 PERCENT LOAN-TO-VALUE.

19 MEMBER FRAZEE: SO WE'LL BE IN FIRST  
20 POSITION —

21 MR. INGLES: YES, WE WILL BE IN FIRST  
22 POSITION. IF NECESSARY WE WOULD TAKE EQUIPMENT  
23 OR OTHER COLLATERAL, IF NECESSARY.

24 CHAIRMAN EATON: ANY OTHER QUESTIONS,  
25 DISCUSSIONS?

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1 MEMBER JONES: MR. CHAIRMAN.  
2 CHAIRMAN EATON: MR. JONES.  
3 MEMBER JONES: I'D LIKE TO MOVE  
4 RESOLUTION 1999-58, APPROVING THE LOAN TO ROMAC  
5 SUPPLY.  
6 CHAIRMAN EATON: DO WE HAVE A SECOND?  
7 MEMBER FRAZEE: SECOND.  
8 CHAIRMAN EATON: HAVING A SECOND, THE  
9 MOTION AND SECOND.  
10 WITHOUT OBJECTION FROM FELLOW BOARD  
11 MEMBERS, IF WE CAN SUBSTITUTE THE ROLL CALL OF  
12 ITEM TWO FOR ITEM THREE? HEARING NONE, SO SHALL  
13 BE THE ORDER.  
14 ITEM NO. 4: CONSIDERATION OF AWARD OF THE  
15 FISCAL YEAR 1998/99 LOCAL GOVERNMENT WASTE TIRE  
16 PUBLIC EDUCATION AND AMNESTY DAY GRANTS  
17 CHAIRMAN EATON: ITEM 4, CONSIDERATION OF  
18 THE --  
19 MS. TRGOVCICH: ITEM NO. 4 IS  
20 CONSIDERATION OF AWARD OF THE FISCAL YEAR 1998/99  
21 LOCAL GOVERNMENT WASTE TIRE PUBLIC EDUCATION AND  
22 AMNESTY GRANTS.  
23 THIS IS THE FIRST IN A SERIES OF  
24 GRANT AWARDS WHICH WILL BE COMING BEFORE THE  
25 BOARD THIS MONTH AND IN THE COMING TWO MONTHS.

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1 JOHN NUFFER WILL MAKE THE  
2 PRESENTATION.  
3 MR. NUFFER: GOOD MORNING, MR. CHAIRMAN  
4 AND BOARD MEMBERS, MY NAME IS JOHN NUFFER. AND  
5 WE'RE HERE TO PRESENT STAFF'S RECOMMENDATION FOR  
6 AWARD OF THE '98-99 PUBLIC EDUCATION AND AMNESTY  
7 DAY GRANTS.  
8 THE BOARD PREVIOUSLY OFFERED PUBLIC  
9 EDUCATION AND AMNESTY DAY GRANTS TO LOCAL  
10 GOVERNMENTS IN 1993, '94, '95 AND '96. THE BOARD  
11 AWARDED 33 SUCH GRANTS.  
12 IN THE PROCESS OF EDUCATING THE  
13 PUBLIC JURISDICTIONS CLEANED UP BETWEEN 1,000 AND  
14 30,000 TIRES PER GRANT. IN 1997 AND '98,  
15 HOWEVER, THE BOARD FOCUSED ON PROVIDING  
16 ASSISTANCE TO ADDRESS OTHER ASPECTS OF THE TIRE  
17 PROBLEM.  
18 BUT, BECAUSE THE PROGRAM HAS BEEN SO  
19 SUCCESSFUL FOR LOCAL GOVERNMENTS, WE WERE  
20 FREQUENTLY ASKED TO REINSTATE IT. AS IT TURNS  
21 OUT, THIS PROGRAM WAS VERY IMPORTANT TO LOCAL  
22 GOVERNMENTS IN EDUCATING THE PUBLIC ABOUT PROPER  
23 TIRE DISPOSAL AND RECYCLING, AND IN REDUCING THE  
24 ILLEGAL DISPOSAL OF WASTE TIRES.  
25 BACK IN APRIL OF LAST YEAR THE BOARD

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1 ALLOCATED 100,000 FOR THESE GRANTS, AND ELIGIBLE  
2 APPLICANTS MAY RECEIVE UP TO 15,000. THESE  
3 INCLUDE CITIES, COUNTIES, SPECIAL DISTRICTS,  
4 JOINT POWERS AGENCIES, AND OTHER POLITICAL  
5 SUBDIVISIONS.  
6 WE MAILED A NOTICE OF FUNDS AVAILABLE  
7 IN OCTOBER OF 1998, LAST YEAR, TO MORE THAN 3,000  
8 PUBLIC ENTITIES, AND FROM THAT WE RECEIVED 92  
9 REQUESTS FOR APPLICATIONS. THE APPLICATION  
10 PACKAGES INCLUDED INSTRUCTIONS AND EXPLANATION OF  
11 THE NINE CRITERIA BY WHICH THE APPLICATIONS WOULD  
12 BE EVALUATED AND SCORED. THE BOARD ADOPTED THESE  
13 CRITERIA LAST SEPTEMBER. STAFF RECEIVED 18  
14 APPLICATIONS REQUESTING ALMOST 207,000 BY THE  
15 FINAL FILING DATE, WHICH WAS NOVEMBER 30TH.  
16 A PANEL OF FOUR STAFF EVALUATED AND  
17 SCORED THE 18 APPLICATIONS USING THE NINE BOARD-  
18 ADOPTED REVIEW CRITERIA. APPLICATIONS WERE THEN  
19 RANKED IN DESCENDING ORDER ON ONE OF THREE LISTS,  
20 AN "A" LIST, A "B" LIST, OR A "C" LIST, AND THOSE  
21 LISTS ARE INCLUDED ON ATTACHMENTS 1 AND 2 OF THE  
22 AGENDA ITEM.  
23 THE PROCESS IS COMPETITIVE, AND TO BE  
24 ELIGIBLE FOR AN AWARD APPLICANTS MUST RECEIVE A  
25 SCORE OF AT LEAST 75 OUT OF 100. THE SCORES

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1 RANGED FROM A HIGH OF 94 TO A LOW OF 71, SO 16 OF  
2 THE 18 APPLICATIONS RECEIVED A PASSING SCORE OF  
3 AT LEAST 75 POINTS. TWO APPLICATIONS SCORED LESS  
4 THAN 75.  
5 THE APPLICANTS THAT RECEIVED A  
6 PASSING SCORE, AND FOR WHICH THERE WERE FUNDS  
7 AVAILABLE, ARE PRESENTED IN LIST "A" OF THE  
8 ATTACHMENT, OF ATTACHMENT 1. OF THESE, PLACER  
9 COUNTY, LONG BEACH, AND BUTTE COUNTY RECEIVED THE  
10 SAME NUMBER OF POINTS AND COULD NOT BE FUNDED AT  
11 THE LEVELS REQUESTED. TO BE FAIR, WE REDUCED  
12 EACH REQUEST BY THE SAME AMOUNT, WHICH WAS ABOUT  
13 \$2200, SO WE COULD FUND ALL THREE AT A REDUCED  
14 LEVEL.  
15 THE "B" LIST, ALSO INCLUDED ON  
16 ATTACHMENT 1, IS COMPRISED OF SHASTA COUNTY AND  
17 THE CITY OF LAKEPORT. THEY EACH RECEIVED A  
18 PASSING SCORE, BUT THERE WAS NOT ENOUGH MONEY  
19 REMAINING TO FUND THOSE. IN TOTAL WE WERE SHORT  
20 ABOUT \$26,543 FOR THOSE APPLICANTS THAT RECEIVED  
21 A PASSING SCORE.  
22 THE STAFF RECOMMENDATION, WHICH IS  
23 PRESENTED IN RESOLUTION 1999-57, IS TO FULLY FUND  
24 THE APPLICANTS ON LISTS "A" AND "B" USING THE  
25 150,000 THAT WAS ALLOCATED LAST APRIL, AND ANY

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1 FUNDS THAT MAY BE REALLOCATED UP TO A TOTAL OF  
2 \$176,543.  
3 THIS WILL FURTHER PUBLIC EDUCATION  
4 ACROSS THE STATE AND RESULT IN THE CLEANUP OF AN  
5 ESTIMATED 155,000 WASTE TIRES. AND THAT HAPPENS  
6 TO WORK OUT TO ABOUT \$1.13 A TIRE.  
7 AND THAT CONCLUDES MY PRESENTATION.

8 WE'D BE HAPPY TO ANSWER QUESTIONS.

9 CHAIRMAN EATON: QUESTIONS FROM THE  
10 BOARD?

11 MEMBER JONES: MR. CHAIRMAN.

12 CHAIRMAN EATON: MR. JONES.

13 MEMBER JONES: IN MY BRIEFING, WHEN WE  
14 WENT THROUGH THESE THINGS -- I DON'T HAVE ANY  
15 PROBLEM WITH "A" AND "B" -- BUT I RAISED AN  
16 ISSUE, AND IT'S A SUBJECTIVE TERM. BUT IT WAS --  
17 I THINK ONE OF THE TWO ON LIST "C" DIDN'T MEET  
18 THE CRITERIA, PERIOD. BUT ONE OF THEM, THERE WAS  
19 AN ISSUE ABOUT NEED, AND I LOOK AT IT THAT NEED  
20 IS RELATIVE TO PROBLEM.

21 DO YOU KNOW WHAT I MEAN? IF YOU'RE  
22 THE COUNTY OF L.A. AND YOU HAVE 15 MILLION TIRES  
23 GENERATED IN YOUR AREA, EVEN THOUGH YOU HAVE A  
24 LOT OF PROGRAMS, ARE THOSE PROGRAMS EFFECTIVELY  
25 MANAGING THOSE 15 MILLION TIRES? AND SOMETIMES I

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1 THINK WE GET -- SOMETIMES I'M NOT SURE HOW WE  
2 APPLY THE NUMBER OF PROGRAMS TO THE EFFECTIVENESS  
3 OF THOSE PROGRAMS.  
4 SO I THINK THAT I DON'T HAVE ANY  
5 PROBLEM WITH ADOPTING, YOU KNOW, "A" AND "B," BUT  
6 I WOULD LIKE TO HAVE AN EXAMINATION OF "C" TO SEE  
7 IF WE'RE COMFORTABLE WITH THOSE. BECAUSE WE'RE  
8 GOING TO HAVE SOME DOLLARS WE CAN REALLOCATE.  
9 THIS IS GETTING TIRES OFF THE ROAD AND EDUCATING  
10 PEOPLE HOW TO MANAGE THEM, AND JUST BECAUSE  
11 THEY'RE BIG JURISDICTIONS, THEIR PROBLEMS ARE  
12 JUST AS BIG AS THE CITY OF PASADENA AND TRINITY  
13 COUNTY.

14 CHAIRMAN EATON: MS. TRGOVCICH.  
15 MS. TRGOVCICH: I WOULD NEED TO EXPLORE  
16 FURTHER THE REQUEST OF MEMBER JONES. IN ORDER TO  
17 REEVALUATE THE APPLICATIONS ON LIST "C," LIST "C"  
18 ARE THOSE APPLICATIONS THAT DID NOT RECEIVE A  
19 PASSING SCORE BASED UPON THE CRITERIA APPROVED BY  
20 THE BOARD.  
21 IN SENDING OUT THIS GRANT PACKAGE I  
22 WOULD NEED TO ASK THE QUESTION OF LEGAL COUNSEL  
23 AS TO WHETHER OR NOT THIS WOULD BE AN ACTION THAT  
24 WOULD BE INITIATED UNDER THE CURRENT PROCESS, OR  
25 WHETHER WE WOULD NEED TO EVALUATE THE CRITERIA

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1 ITSELF THAT WERE USED AS THE BASIS TO SEND OUT  
2 THE NOTICE OF FUNDS AVAILABLE AND THE SUBSEQUENT  
3 GRANT APPLICATIONS.

4 CHAIRMAN EATON: I THINK THAT WE -- THIS  
5 IS ONE OF THOSE SITUATIONS, MUCH LIKE WHAT WE  
6 FELL INTO WITH A PREVIOUS GRANT WITH SAN DIEGO,  
7 AND SOME OF THOSE WHO FELL BEFORE THE LINE  
8 PREVIOUSLY. AND IT IS ALWAYS A SITUATION WHICH  
9 BECOMES INCREASINGLY DIFFICULT WITH THOSE WHO  
10 HAVE A PASSING SCORE AND THOSE THAT HAVE A  
11 FAILING SCORE.

12 WHAT I WOULD MAYBE ASK IN THE  
13 INTEREST OF TIME, IF IT'S OKAY WITH MY FELLOW  
14 BOARD MEMBER MR. JONES, THAT SUBSEQUENT TO THIS  
15 THAT THERE BE A DISCUSSION BETWEEN YOUR OFFICE,  
16 MS. TRGOVCICH, AND THE LEGAL OFFICE JUST TO SEE  
17 WHAT CAN BE DONE, IF ANYTHING. AND IF THERE IS  
18 SOMETHING THAT CAN BE DONE, IN TERMS OF LEGAL OR  
19 SOME OF YOUR CONCERNS, THEN THAT WOULD BE BROUGHT  
20 BACK PRIOR TO ANY REALLOCATION.

21 MEMBER JONES: RIGHT. JUST REAL BRIEFLY,  
22 I HAVE NO PROBLEM WITH OUR CRITERIA. BUT 20  
23 POINTS IS NEED. IF THEY FELL FIVE POINTS SHORT,  
24 HOW WE TREATED NEED IS PRETTY CRITICAL.  
25 AND BECAUSE THIS AWARD, UNLIKE OTHER



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1 AWARDS, AREN'T VIEWED BY TWO DIFFERENT SETS OF  
2 EYES. ONE OF THE SAFEGUARDS WE PUT INTO OUR  
3 CRITERIA ON GRANTS WAS THAT INDEPENDENTLY WE  
4 WOULD PULL OUT WHAT SOMEBODY SAW AND SCORED AT  
5 WHATEVER, AND HAVE ANOTHER GROUP LOOK AT IT, AND  
6 DID THEY COME UP WITH THE SAME. AND SO THIS ONE  
7 NOT HAVING THAT FUNCTION, HOW THE TREATMENT OF  
8 NEED IS DEALT WITH DOESN'T AFFECT THE CRITERIA,  
9 BUT IT'S SUBJECTIVE. AND THAT'S WHAT MY ISSUE  
10 IS.

11 MS. TRGOVCICH: MR. CHAIRMAN, JUST FOR  
12 YOUR INFORMATION, THAT MR. JONES IS VERY CORRECT,  
13 THERE WAS ONLY ONE PANEL. BUT THIS PROCESS, LIKE  
14 ALL OTHER GRANT PROCESSES NOW, ARE SUBJECT TO THE  
15 BLIND REVIEW, WHERE OUR GRANTS ADMINISTRATION  
16 STAFF CONDUCT A BLIND REVIEW OF THE APPLICATIONS  
17 THAT ARE SCORED.

18 ALSO, JOHN NUFFER JUST POINTED OUT TO  
19 ME THAT WHILE L.A. COUNTY DID SCORE LOWER ON THE  
20 NEED CRITERIA, THE TWO AREAS WHERE THE SCORE WAS  
21 SIGNIFICANTLY DECREASED WAS IN THE AREA OF BUDGET  
22 AND IN THE AREA OF OBJECTIVE IN RECYCLING.

23 MEMBER JONES: I DON'T HAVE A PROBLEM.  
24 BUT I'M JUST -- WHAT CAME OUT IN MY BRIEFING WAS  
25 NEED.

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1 CHAIRMAN EATON: MR. FRAZEE.

2 MEMBER FRAZEE: WELL, I THOUGHT I  
3 UNDERSTOOD FROM MY BRIEFING THAT LOS ANGELES AND  
4 SAN DIEGO DID NOT SCORE, THAT THEIR APPLICATIONS  
5 WERE DEFICIENT IN SOME MANNER. IT WASN'T JUST  
6 THAT THEY WERE POINTS BELOW THE CUTOFF, BUT THE  
7 APPLICATIONS WERE INCOMPLETE.

8 IS THAT CORRECT?

9 MR. NUFFER: YES, THAT'S CORRECT. AND IN  
10 L.A. COUNTY'S CASE -- WELL, SAN DIEGO ACTUALLY  
11 HAD NOTHING ABOUT EVALUATION. ONE OF THEIR  
12 CRITERIA IS TO TELL US HOW THEY'RE GOING TO  
13 EVALUATE THE SUCCESS OF THE PROJECT, AND SAN  
14 DIEGO OMITTED ANY REFERENCE TO THAT.

15 MEMBER FRAZEE: THAT'S KIND OF AN  
16 OVERRIDING CONSIDERATION FOR ME, CONSIDERING WHO  
17 THESE ARE. THESE ARE TWO -- SUPPOSEDLY THE MOST  
18 SOPHISTICATED COUNTIES OR JURISDICTIONS IN THE  
19 STATE, AND IF THEY DON'T KNOW HOW TO COMPLY WITH  
20 GRANT APPLICATIONS, WELL, THEN I DON'T THINK WE  
21 CAN --

22 MEMBER JONES: I AGREE.

23 MEMBER FRAZEE: IF IT'S A SMALL  
24 JURISDICTION, WHERE SOMEONE WHO IS IN CHARGE OF  
25 14 OTHER JOBS HAS TO FILL OUT THIS GRANT

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1 APPLICATION IT'S ONE THING. BUT WE'RE -- THESE  
2 JURISDICTIONS HAVE STAFFS OF PEOPLE WHO DO  
3 NOTHING BUT GRANT APPLICATIONS. I THINK WOULD  
4 THINK THEY MIGHT BE ABLE TO GET IT RIGHT THE  
5 FIRST TIME.

6 SO, EVEN THOUGH THEY'RE SOUTHERN  
7 CALIFORNIANS --

8 MEMBER JONES: I'M CONVINCED.

9 MEMBER FRAZEE: -- I DON'T HAVE A LOT OF  
10 SYMPATHY FOR THEM.

11 MEMBER PENNINGTON: MR. CHAIRMAN?

12 CHAIRMAN EATON: MR. PENNINGTON.

13 MEMBER PENNINGTON: YES. I'LL MOVE

14 ADOPTION OF RESOLUTION --

15 CHAIRMAN EATON: IF YOU COULD JUST WAIT A  
16 SECOND?

17 MEMBER PENNINGTON: SURE.

18 CHAIRMAN EATON: I DO HAVE ONE SPEAKER  
19 SLIP FROM GERALD DE ROCO, IF NONE OF THE OTHER  
20 BOARD MEMBERS HAVE ANY QUESTIONS.

21 MR. DE ROCO. IT LOOKS LIKE AN "0" ON  
22 THE END, IS THAT CORRECT? OR IS IT DE ROCA?

23 MR. DE ROCO: PARDON ME?

24 CHAIRMAN EATON: IS IT DE ROCO OR ROCA?

25 MR. DE ROCO: ROCO, I CAN'T SPELL RIGHT.

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1 CHAIRMAN EATON: OKAY.

2 MR. DE ROCO: THANK YOU, I'M GERALD DE

3 ROCO WITH GLEN COUNTY WASTE MANAGEMENT REGIONAL

4 AGENCY AND GLEN COUNTY DEPARTMENT OF PUBLIC

5 WORKS.

6 WE'RE RANKED QUITE HIGH, WHICH I

7 APPRECIATE. THIS TIRE AMNESTY DAY PROGRAM IS

8 PROBABLY ONE OF THE MOST HIGHLY VISIBLE THINGS

9 THAT THIS BOARD CAN DO. IT'S CERTAINLY WELCOMED

10 AND APPRECIATED IN SMALL COUNTIES.

11 I'M IN A SMALL COUNTY THAT HAS ABOUT

12 900 MILES OF ROAD, ABOUT 27,000 RESIDENTS. WE

13 INTEND TO COLLECT 30,000 TIRES, WHICH WILL BE IN

14 EXCESS OF ONE PER PERSON, OR ABOUT ALMOST THREE

15 PER RESIDENCE. IT'S VISIBLE, IT'S MUCH NEEDED.

16 WE ANTICIPATE -- WE ESTIMATE THAT WE

17 HAVE IN EXCESS OF A MILLION TIRES SCATTERED

18 AROUND THE COUNTY, 2,000 OR 3,000 BEHIND

19 EVERYBODY'S BARN, IT LOOKS LIKE, AND HOW WE WILL

20 ADDRESS THAT LATER IN THE FARM AND RANCH CLEANUP

21 PROGRAM REMAINS TO BE SEEN.

22 BUT I WANT YOU TO KNOW THAT ON BEHALF

23 OF ALL THE LITTLE COUNTIES LIKE THE REGIONAL

24 COUNCIL OF RURAL COUNTIES, THESE TYPE PROGRAMS

25 ARE MUCH NEEDED OUT IN THE STICKS. THANK YOU.

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1           CHAIRMAN EATON: THANK YOU.

2 NOW, MR. PENNINGTON, I'M SORRY.

3           MEMBER PENNINGTON: THANK YOU, MR.

4 CHAIRMAN. I'LL MOVE FOR ADOPTION OF RESOLUTION

5 1999-57, TO APPROVE THE FY '98-99 LOCAL

6 GOVERNMENT WASTE TIRE PUBLIC EDUCATION AMNESTY

7 DAY GRANTS AS LISTED IN ATTACHMENT 1-A, AND TO

8 FULLY FUND ALL APPLICATIONS AS LISTED IN

9 ATTACHMENT 1-B IF FUNDS BECOME AVAILABLE THROUGH

10 A REDIRECTION FROM THE BOARD AND IT'S ACTIVITIES.

11          CHAIRMAN EATON: DO WE HAVE A SECOND?

12          MEMBER JONES: I'LL SECOND IT.

13          MEMBER ROBERTI: MR. CHAIRMAN?

14          CHAIRMAN EATON: I'M SORRY, MR. ROBERTI.

15          MEMBER ROBERTI: ON THE DENIAL OF SAN

16 DIEGO AND LOS ANGELES, I HAVE A QUESTION. WAS

17 PART OF THE DENIAL BASED ON ANYTHING IN THE

18 RECOMMENDATIONS -- RATHER, THE APPLICATIONS THAT

19 THE COST-EFFECTIVENESS WOULD BE JUST -- BECAUSE

20 THE PROJECTS WERE LARGE OR THE ENTITIES WERE

21 LARGE, THE AMOUNT OF MONEY WOULD NOT BE COST

22 EFFECTIVE.

23          MR. NUFFER: THE ANSWER TO THAT I THINK

24 WOULD BE NO. I KNOW WITH L.A. -- IN L.A. COUNTY

25 THEY SCORED LESS THAN FIVE OUT OF 10 IN THE

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1 BUDGET CATEGORY, AND IT'S BECAUSE THEY DIDN'T  
2 PROVIDE ENOUGH INFORMATION TO US FOR US TO  
3 DETERMINE WHETHER OR NOT HOW THE MONEY WAS GOING  
4 TO BE USED, AND WHETHER IT WOULD BE COST-  
5 EFFECTIVE.

6 MEMBER ROBERTI: BUT THE ISSUE WASN'T  
7 SIZE -- THE SPECIFIC ISSUE OF DENIAL WAS NOT  
8 SIZE, IT WAS FAILURE TO GIVE --  
9 MS. TRGOVCICH: -- ADEQUATE INFORMATION.

10 CHAIRMAN EATON: ALL RIGHTY. I HAVE A  
11 MOTION BY MR. PENNINGTON, A SECOND BY MR. JONES.  
12 WITHOUT OBJECTION, IF WE COULD SUBSTITUTE THE  
13 PREVIOUS ROLL CALL? HEARING NO OBJECTIONS, SO  
14 SHALL BE THE ORDER.

15 ONE MOMENT BEFORE I MOVE THE NEXT  
16 ITEM, I'D LIKE TO TAKE A FIVE-MINUTE BREAK, GIVE  
17 THE COURT REPORTER SOME TIME. I KNOW IT'S ABOUT  
18 11:20.

19 I SHOULD KIND OF GIVE YOU AN  
20 INDICATION OF WHAT CHAIR'S INTENT'S GOING TO BE.  
21 WE WILL PROBABLY GO UNTIL SOMETIME AROUND 12:15  
22 OR SO AND TAKE A BREAK, AND HOPEFULLY MOVE  
23 THROUGH A LOT OF THE ITEMS THAT ARE REMAINING  
24 PRIOR TO THIS AFTERNOON WHERE WE HAVE SOME PUBLIC  
25 HEARINGS. SO I WOULD GREATLY APPRECIATE IT IF

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1 YOU COULD KIND OF, IN YOUR PRESENTATIONS, MOVE  
2 ALONG BECAUSE THERE ARE SOME ISSUES THAT ARE  
3 GOING TO GENERATE SOME DISCUSSION AND, THEREFORE,  
4 WE WANT TO HAVE PEOPLE WHO HAVE TRAVELED FROM  
5 AFAR -- GIVING THEM THE TIME SO THEY CAN CATCH  
6 THEIR FLIGHTS, AND SO ON AND SO FORTH.

7 SO WE'LL BE RIGHT BACK HERE AT 11:30  
8 AND START PROMPTLY. THANK YOU. WE'LL RECESS  
9 UNTIL 11:30.

10 (OFF THE RECORD; BRIEF RECESS.)

11 CHAIRMAN EATON: ALL RIGHTY, IF EVERYONE  
12 WOULD TAKE THEIR SEATS AND WE COULD GET STARTED  
13 AGAIN?

14 MEMBER PENNINGTON: MR. CHAIRMAN?

15 CHAIRMAN EATON: MR. PENNINGTON.

16 MEMBER PENNINGTON: I NEED TO OVERRIDE,  
17 BUT --

18 CHAIRMAN EATON: I GOT THE OVERRIDE. I  
19 WON'T TELL THEM WHAT YOU SAID.

20 AS MR. PENNINGTON ALWAYS WAS GOOD  
21 ABOUT REMINDING ALL OF US, IF ANY OF MY FELLOW  
22 BOARD MEMBERS HAD ANY *EX PARTE* COMMUNICATIONS  
23 THAT NEED TO BE DISCLOSED PRIOR TO STARTING IN ON  
24 THE NEXT ITEM?

25 MEMBER PENNINGTON: I REALLY DON'T HAVE

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1 TO *EX PARTE*, BUT I DID SPEAK TO GEORGE NEWAN

2 ABOUT GOLF.

3 CHAIRMAN EATON: A GOOD DISCUSSION I'M

4 SURE.

5 MEMBER PENNINGTON: ABSOLUTELY.

6 ITEM NO. 8: CONSIDERATION OF THE PROJECT

7 RECYCLE REPORT TO THE LEGISLATURE, IN RESPONSE TO

8 SUPPLEMENTAL REPORT LANGUAGE IN THE 1998 BUDGET

9 ACT

10 CHAIRMAN EATON: ALL RIGHTY, ITEM NO. 8,

11 CONSIDERATION OF THE PROJECT RECYCLE REPORT TO

12 THE LEGISLATURE, SUPPLEMENTAL REPORT. MR. PHIL

13 MORALEZ.

14 MR. MORALEZ: GOOD MORNING, MR. CHAIRMAN

15 AND MEMBERS OF THE BOARD. THE ITEM BEFORE YOU IS

16 THE REPORT THAT'S BEEN PREPARED BY STAFF WITH THE

17 INPUT AND HELP OF OTHER STAFF MEMBERS HERE AT THE

18 BOARD.

19 ORIGINALLY THIS ITEM CAME BEFORE YOU

20 ON OCTOBER 21ST, 1998, AND AT THAT TIME THE BOARD

21 DIRECTED STAFF TO WORK WITH THE ADVISORS AND

22 OTHER STAFF IN PROVIDING A MORE COMPREHENSIVE AND

23 COMPLETE REPORT ABOUT PROJECT RECYCLE AS A

24 PROGRAM.

25 THE REPORT PROVIDES AN OVERVIEW OF



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1 THE PROJECT RECYCLE. IT DISCUSSES THE PROGRAM  
2 ACTIVITIES, IT IDENTIFIES ISSUES AFFECTING STATE  
3 AGENCY WASTE DIVERSION EFFORTS, AND IT OUTLINES  
4 STATUTORY ADMINISTRATIVE RESOURCES AND  
5 RECOMMENDATIONS.  
6 THE CURRENT PROGRAM STATUS CONSISTS  
7 OF SIX FULL-TIME STAFF, FIVE PART-TIME STAFF WHO  
8 ARE RESPONSIBLE FOR IMPLEMENTING THE PROJECT  
9 RECYCLE WASTE DIVERSION PROGRAM AT OVER 3200  
10 STATE FACILITIES.  
11 THE CURRENT PROGRAM'S BUDGET.  
12 CURRENTLY THE STATUTE REQUIRES A STATE AGENCY'S  
13 DEPOSIT REVENUES GENERATED FROM THE RECYCLING OF  
14 MATERIALS INTO THE IWAM ACCOUNT, A SPECIAL  
15 ACCOUNT FOR PROJECT RECYCLE. WE DO KNOW THAT  
16 THERE ARE A NUMBER OF REVENUES OUT THERE THAT ARE  
17 BEING GENERATED THAT WE AREN'T RECEIVING. SOME  
18 OF THE STATE AGENCIES, FOR WHATEVER REASON, HAVE  
19 RETAINED THE REVENUES.  
20 THE CIWMB HAS THE SPENDING AUTHORITY  
21 OF UP TO \$670,000 ANNUALLY. LAST YEAR, JUST AS  
22 AN EXAMPLE, WE GENERATED REVENUES OF OVER  
23 \$208,000 AND EXPENDED \$159,000, WHICH IS  
24 PRIMARILY USED FOR CONTAINERS AND PROVIDING  
25 SUPPORT TO STATE FACILITIES.

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1 THE REPORT ALSO IDENTIFIES SEVERAL  
2 ISSUES AND RECOMMENDATIONS. YOU MIGHT RECALL  
3 FROM THE FIRST REPORT THE, THE ISSUES AND  
4 RECOMMENDATIONS ARE ESSENTIALLY THE SAME. THE  
5 REPORT IDENTIFIES SEVEN VERY IMPORTANT ISSUES,  
6 AND IT ALSO PROVIDES RECOMMENDATIONS TO ADDRESS  
7 THOSE ISSUES.  
8 WHAT DIFFERS IN THIS REPORT IS THAT  
9 THERE IS AN EXTENT TO EXPAND AND IDENTIFY THE  
10 ROLE THAT PROJECT RECYCLE SHOULD PLAY. WE HAVE  
11 DONE SOME PROGRAM MODIFICATIONS. THE FIRST OF  
12 THOSE TO IMPLEMENT TWO PROGRAM -- OR,  
13 PROGRAMMATIC STRATEGIES.  
14 THE FIRST IS TO ADDRESS TARGETED  
15 MATERIALS WHICH IS CONSISTENT WITH THE BOARD'S  
16 TARGET TEAMS, INCLUDING ORGANIC MATERIALS AND  
17 CONSTRUCTION AND DEMOLITION WASTE, AND ALSO TO  
18 LOOK AT INCREASING TARGETED PAPER, NOT ONLY FROM  
19 A RECOVERY STANDPOINT BUT ALSO FROM A PROCUREMENT  
20 STANDPOINT.  
21 THE OTHER ITEM, STRATEGY IS TO  
22 PRIORITIZE LARGE AND UNIQUE WASTE GENERATORS. WE  
23 KNOW THAT THERE ARE SUCH STATE FACILITIES SUCH AS  
24 DEPARTMENT OF CORRECTIONS, DEPARTMENT OF MOTOR  
25 VEHICLES, CALTRANS, THAT PROVIDES --

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1 SIGNIFICANTLY ADDRESS THE WASTE STREAM, AND WE  
2 NEED TO TARGET THOSE TO GET THE BIGGEST BANG FOR  
3 OUR BUCKS.  
4 IN ADDITION, WE ALSO NEED TO MAXIMIZE  
5 SOURCE REDUCTION. PROJECT RECYCLE NEEDS TO BE  
6 FULLY ENCOMPASSING ISSUES SUCH AS REUSE, TO LOOK  
7 AT SUCH THINGS AS THE CALMAX PROGRAM, TO  
8 ENCOURAGE STATE AGENCIES TO PARTICIPATE IN THAT  
9 PROGRAM TO RECOVER AND REUSE MORE OF THE  
10 MATERIAL.  
11 ALSO THE RECYCLE CONTENT PRODUCT  
12 PROCUREMENT. WE NEED TO ENCOURAGE STATE AGENCIES  
13 TO MEET THEIR MANDATED REQUIREMENTS OF PROCURING  
14 RECYCLED-CONTENT PRODUCTS.  
15 WE ALSO NEED TO EXPAND THE PROGRAM TO  
16 PUBLIC SCHOOL WASTE -- EXPAND THE PROGRAM FOR  
17 PUBLIC SCHOOL WASTE DIVERSION ACTIVITIES AS WELL.  
18 AND, ALSO, TO DEVELOP A PROGRAM TO  
19 REWARD STATE AGENCIES. MUCH AS WE HAVE WITH THE  
20 RAB PROGRAM IN THE PRIVATE SECTOR, WE NEED TO  
21 RECOGNIZE THOSE STATE AGENCIES THAT HAVE DONE AN  
22 EXCELLENT JOB OR MADE EFFORTS TO REDUCE THEIR  
23 WASTE STREAM.  
24 AND THE REPORT ALSO PROVIDES COMMENTS  
25 FOR ADDITIONAL RESOURCES THAT ARE NEEDED TO

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1 ADDRESS THIS EXPANSION OF THE PROGRAM. THAT  
2 ISSUE IS BEING ADDRESSED CURRENTLY WITH THE  
3 DEPARTMENT OF FINANCE LETTER AND BCP PROPOSALS  
4 THAT STAFF IS GOING THROUGH THE ADMINISTRATIVE  
5 PROCESS HERE AT THE BOARD.  
6 IN CONCLUSION, IT IS OUR BELIEF THE  
7 REPORT IS RESPONSIVE TO THE LAO AND TO THE  
8 SUPPLEMENTAL BUDGET LANGUAGE IN THE 1998 BUDGET  
9 ACT. IT DOES, IN FACT, IDENTIFY SEVEN KEY ISSUES  
10 THAT AFFECT PROGRAM IMPLEMENTATION, IT PROVIDES  
11 RECOMMENDATIONS THAT ENHANCE AND MODIFY PROGRAM  
12 OPERATIONS, AND IT PROVIDES A FRAMEWORK THAT I  
13 LIKE TO SAY REDEFINES PROJECT RECYCLE AS A  
14 STATEWIDE INTEGRATED PROGRAM, WHICH IS IN ESSENCE  
15 CLOSING THE LOOP. NOT ONLY ARE WE LOOKING AT  
16 RECOVERY MATERIALS, BUT WE'RE LOOKING AT  
17 PROCUREMENT, WE'RE LOOKING AT DIVERSION, WE'RE  
18 LOOKING AT WASTE PREVENTION, AS WELL.  
19 AT THIS TIME I'D LIKE TO TAKE THE  
20 OPPORTUNITY JUST TO THANK ADVISORS ARNIE SOWELL,  
21 JEFF DANZIGER, SUSAN WESTLAKE, AND MANY STAFF  
22 FROM THE MARKETS BRANCH OR DIVISION THAT HAVE  
23 HELPED US IN PUTTING THIS REPORT TOGETHER AND  
24 ADDRESSING MANY OF THESE ISSUES.  
25 THIS CONCLUDES STAFF'S PRESENTATION.

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1 I'M NOW OPEN FOR ANY COMMENTS OR QUESTIONS.  
2 CHAIRMAN EATON: ANY QUESTIONS,  
3 DISCUSSIONS? OKAY.  
4 I HAVE ONE SPEAKER SLIP, MR. RICK  
5 BEST, CALIFORNIANS AGAINST WASTE.  
6 MR. BEST: I'M RICK BEST WITH  
7 CALIFORNIANS AGAINST WASTE. I'LL KEEP MY  
8 COMMENTS BRIEF, I KNOW THAT YOU HAVE A LONG  
9 AGENDA, AND I'M GETTING OVER A COLD.  
10 BUT I WANT TO SIMILARLY THANK THE  
11 STAFF. I THINK YOU'VE DONE AN EXCELLENT JOB IN  
12 TERMS OF TAKING WHAT HAD BEEN INITIALLY PUT  
13 TOGETHER IN OCTOBER, AND REALLY FLESHING OUT A  
14 LOT OF THE DETAILS.  
15 AS MANY OF YOU PROBABLY KNOW, WE'RE  
16 SPONSORING LEGISLATION AB 75 TO HELP ADDRESS SOME  
17 OF THE LEGISLATIVE CORRECTIONS THAT ARE NEEDED TO  
18 HELP NOT ONLY INCREASE STATE AGENCY RECYCLING BUT  
19 PURCHASE OF RECYCLED PRODUCTS. WE THINK THIS IS  
20 REALLY AN IMPORTANT AREA WHERE THE STATE NEEDS TO  
21 SHOW ITS LEADERSHIP AND FOLLOW THROUGH IN MEETING  
22 THESE GOALS. LOCAL GOVERNMENTS CERTAINLY ARE  
23 DOING THEIR SHARE, AND I THINK IT'S APPROPRIATE  
24 FOR THE AGENCIES TO DO THEIR SHARE AS WELL.  
25 I THINK ONE POINT I WANT TO MAKE,

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1 THOUGH, IS JUST IN A REFERENCE TO, FOR EXAMPLE,  
2 IN THE LANGUAGE OF THE RESOLUTION IT STATES THAT  
3 IT'S THE WASTE BOARD'S RESPONSIBILITY TO, YOU  
4 KNOW, FOLLOW THROUGH IN TERMS OF STATE AGENCY  
5 RECYCLING. I THINK CERTAINLY THE WASTE BOARD HAS  
6 THE ROLE IN TERMS OF COORDINATING IT, BUT I THINK  
7 IT'S IMPERATIVE THAT EACH INDIVIDUAL STATE AGENCY  
8 ACCEPT ITS OWN RESPONSIBILITY FOR THE WASTE  
9 STREAM THAT IS GENERATED. AND THAT'S WHAT'S  
10 REALLY NEEDED TO MAKE SURE THAT THESE PROGRAMS  
11 GET IMPLEMENTED, IS THAT THERE IS SOME  
12 RESPONSIBILITY TAKEN BY RECYCLING COORDINATORS  
13 WITHIN EACH AGENCY TO IMPLEMENT THESE PROGRAMS.  
14 SO WITH THAT, WE SUPPORT THE -- MANY  
15 OF THE RECOMMENDATIONS THAT ARE IN THERE AND LOOK  
16 FORWARD TO WORKING WITH STAFF ON PURSUING  
17 LEGISLATIVE AND OTHER TYPES OF PROGRAMS TO HELP  
18 EXPAND THESE PROGRAMS.

19 CHAIRMAN EATON: I, TOO, WOULD ALSO LIKE  
20 TO ECHO THE SENTIMENTS OF MR. MORALEZ AS IT  
21 RELATES TO THE BOARD MEMBER STAFF OF MR.  
22 PENNINGTON, JONES, SENATOR ROBERTI, AND MR.  
23 FRAZEE WHO WORKED HARD AND LOOKED AT IT. AND IF  
24 THERE WAS EVER AN ARGUMENT FOR NOT DOING  
25 PAPERLESS, THIS PROBABLY -- THIS REPORT WOULD BE

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1 IT. IT'S HAD NOTHING BUT COMPUTER GLITCHES  
2 THROUGHOUT, AND I THINK IT WAS A TREMENDOUS  
3 EFFORT ON BEHALF OF ALL THE STAFF TO DO SO.  
4 I'D JUST ALSO LIKE TO POINT OUT THAT  
5 THIS REPORT ALSO WILL BE VERY HELPFUL. AS YOU  
6 WELL KNOW, EVERY TIME WE GO BEFORE THE BUDGET  
7 HEARINGS THE LEGISLATIVE ANALYST'S OFFICE IS  
8 ALWAYS RAISING QUESTIONS WITH REGARD TO PROJECT  
9 RECYCLE. AND I BELIEVE, HOPEFULLY, WITH THIS  
10 REPORT WE WILL HAVE ONE SIGN FOR ALL -- A GOOD  
11 ROAD MAP BY WHICH TO PROCEED.  
12 I ALSO BELIEVE THAT WE HAVEN'T  
13 ALLOCATED OUR PROJECT RECYCLE FUNDS YET THIS  
14 YEAR, IF I'M NOT MISTAKEN. AND PENDING THIS  
15 ACTION ON THE REPORT, I WOULD HOPE THAT THE STAFF  
16 MIGHT BE ABLE TO BRING AN ITEM BACK LATER THIS  
17 YEAR WITH THAT REGARD.  
18 THERE MAY BE SOME FORMATTING AND  
19 TECHNICAL CHANGES AND TYPOS BECAUSE OF THE  
20 COMPUTER GLITCHES, AND SO I WOULD JUST ASK IF WE  
21 DO ADOPT THIS REPORT THAT THOSE TECHNICAL CHANGES  
22 BE ALLOWED TO BE PUT IN AFTER THE ADOPTION.  
23 AND HAVING SAID THAT, ANY BOARD  
24 MEMBERS -- ANY QUESTIONS OR FURTHER DISCUSSION?  
25 SENATOR ROBERTI.

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1 MEMBER ROBERTI: I WOULD JUST -- NOT ON  
2 THIS ITEM. I WOULD LIKE TO ADD MY *EX PARTES*.  
3 MR. GEORGE KEWAN, MS. VICKY WILSON, AND MS. SUE  
4 GORDON REGARDING THE GENERAL ORGANIZATION OF  
5 ORANGE COUNTY WASTE MANAGEMENT.

6 CHAIRMAN EATON: OKAY. THANK YOU.  
7 MR. JONES.

8 MEMBER JONES: MR. EATON, CHAIRMAN EATON,  
9 I AGREE WITH RICK BEST, I DON'T THINK IT IS THE  
10 WASTE BOARD'S JOB TO -- IN THAT FIRST WHEREAS,  
11 WASTE DIVERSION STATE FACILITIES IS OUR  
12 RESPONSIBILITY.  
13 IT'S OUR RESPONSIBILITY TO PROVIDE  
14 THE TECHNICAL ASSISTANCE AND THE WHEREWITHAL TO  
15 BE A ADVOCATE OR A TECHNICAL SOURCE. I DON'T  
16 KNOW WHAT THE RIGHT WORD NEEDS TO BE INSERTED  
17 THERE, BUT I DON'T THINK WE'RE IN THE BUSINESS OF  
18 TAKING ON THAT RESPONSIBILITY.

19 ARE WE? BY LAW? IS IT OUR  
20 RESPONSIBILITY, MR. MORALEZ? OR IS IT OUR  
21 RESPONSIBILITY TO ASSIST?

22 MR. MORALEZ: ACTUALLY, IT IS OUR  
23 RESPONSIBILITY TO -- IT'S MORE TO ENCOURAGE AND  
24 TO PROMOTE THE PROGRAM. THERE'S NO HAMMER. THE  
25 PROBLEM IS THAT THERE IS NO HAMMER IN MAKING



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1 AGENCIES COMPLY WITH THE DIRECTION. BUT WE ARE  
2 RESPONSIBLE FOR IMPLEMENTING THE PROGRAMS AT ALL  
3 STATE FACILITIES.

4 MEMBER JONES: OKAY. WELL, THEN I GUESS  
5 WE'LL LEAVE IT THE WAY IT IS.

6 MR. CHAIRMAN, I'D LIKE TO MAKE A  
7 MOTION TO MOVE RESOLUTION 1999-106.

8 MEMBER PENNINGTON: I'LL SECOND IT.

9 CHAIRMAN EATON: WE HAVE A MOTION BY MR.  
10 JONES, AND A SECOND BY MR. PENNINGTON, REGARDING  
11 THE ADOPTION OF THE PROJECT RECYCLE REPORT. I  
12 THINK FOR THIS ONE WE SHOULD HAVE A ROLL CALL.  
13 AND, MADAM SECRETARY, WOULD YOU PLEASE CALL THE  
14 ROLL?

15 THE SECRETARY: BOARD MEMBERS FRAZEE?

16 MEMBER FRAZEE: AYE.

17 THE SECRETARY: JONES?

18 MEMBER JONES: AYE.

19 THE SECRETARY: PENNINGTON?

20 MEMBER PENNINGTON: AYE.

21 THE SECRETARY: ROBERTI?

22 MEMBER ROBERTI: AYE.

23 THE SECRETARY: CHAIRMAN EATON?

24 CHAIRMAN EATON: AYE.

25 THE MOTION PASSES.

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1 MEMBER PENNINGTON: MR. CHAIRMAN?

2 CHAIRMAN EATON: YES, MR. PENNINGTON, I'M

3 SORRY.

4 MEMBER PENNINGTON: THAT'S OKAY. COULD I

5 ASK THAT THE STAFF KEEP US INFORMED IF THERE IS

6 LEGISLATION OR ANY ADMINISTRATIVE ACTION BY THE

7 GOVERNOR'S OFFICE IN THIS AREA, THAT WE STAY ON

8 TOP OF IT, AND MAYBE ASK THEM TO REPORT BACK TO

9 US QUARTERLY OR SOMETHING?

10 CHAIRMAN EATON: YES, I THINK THAT WOULD

11 BE A GOOD IDEA. IN FACT, PERHAPS MAYBE ONE OF

12 THE MORE WAYS TO DO IT IS WE CAN INCORPORATE IT

13 WITHIN QUARTERLY, IN MR. CHANDLER'S REPORT --

14 MEMBER PENNINGTON: VERY GOOD.

15 CHAIRMAN EATON: -- AND IF DEEMED

16 NECESSARY, THAT WE HAVE AN ITEM THAT WOULD COME

17 BACK IN THE FUTURE. AS WELL AS legislative

18 ACTIVITY, AS WELL.

19 ITEM NO. 9: CONSIDERATION OF APPROVAL TO

20 FORMALLY NOTICE, FOR A 45-DAY COMMENT PERIOD,

21 PROPOSED REVISIONS TO THE BOARD'S CONFLICT OF

22 INTEREST CODE

23 CHAIRMAN EATON: ITEM NO. 9,

24 CONSIDERATION OF APPROVAL TO FORMALLY NOTICE ,

25 FOR A 45-DAY COMMENT PERIOD, PROPOSED REVISIONS

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1 TO THE BOARD'S CONFLICT OF INTEREST CODE. AND MR.  
2 BLOCK FROM THE LEGAL DEPARTMENT. WELCOME.  
3 MR. BLOCK: I AM ELLIOT BLOCK FROM THE  
4 LEGAL OFFICE, GOOD MORNING, CHAIRMAN EATON AND  
5 BOARD MEMBERS. I'M HERE TO MAKE A QUICK  
6 PRESENTATION ON ITEM NO. 9, WHICH IS ASKING FOR  
7 APPROVAL TO GO TO FORMAL NOTICE FOR REVISIONS TO  
8 THE BOARD'S CONFLICT OF INTEREST CODE.  
9 ALL STATE AGENCIES, AND OBVIOUSLY  
10 INCLUDING THIS ONE, ARE REQUIRED TO HAVE A  
11 CONFLICT OF INTEREST CODE, AND IT DESIGNATES WHO  
12 IN THE AGENCY HAS TO FILE THE STATEMENT OF  
13 ECONOMIC INTERESTS AND WHAT THOSE INTERESTS THAT  
14 HAVE TO BE DISCLOSED ARE.  
15 IT IS ADOPTED AS A REGULATION,  
16 ALTHOUGH IT'S A MODIFIED PROCEDURE WHERE THE FAIR  
17 POLITICAL PRACTICES COMMISSION REVIEWS IT RATHER  
18 THAN OAL.  
19 REVISION TO THE CONFLICT OF INTEREST  
20 CODE ARE REQUIRED FOR CHANGES TO WHAT THOSE  
21 POSITIONS ARE, AND THE DISCLOSURE CATEGORIES.  
22 AND THE BOARD'S CONFLICT OF INTEREST CODE WAS  
23 LAST REVISED IN 1993, FOUR YEARS AGO. PRIOR TO  
24 THAT IT WAS ACTUALLY LAST REVISED IN, I BELIEVE,  
25 1982. WE WERE A LITTLE BIT BEHIND.

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1 THE PROPOSED REVISIONS, WHICH ARE  
2 CONTAINED IN YOUR PACKET, STARTING ON PAGE -93,  
3 REFLECT A VARIETY OF CHANGES BOTH IN THE  
4 ORGANIZATION, IN TERMS OF DIVISION NAMES -- AND I  
5 SHOULD -- IT WAS POINTED OUT TO ME, AND I'VE MADE  
6 ONE CHANGE, ACTUALLY YESTERDAY IT WAS DISTRIBUTED  
7 TO YOU, ONE ADDITIONAL CHANGE. I DID FORGET TO  
8 NOTE THE CHANGE IN THE NAME OF THE OFFICE OF  
9 PUBLIC AFFAIRS. THOSE CHANGES THAT I'M  
10 DESCRIBING START ON PAGE -95 OF YOUR PACKET.  
11 IN ADDITION, THERE'S A HANDFUL OF  
12 POSITIONS THAT HAVE BEEN ADDED, CLASSIFICATIONS  
13 TO THE BOARD, WHICH WOULD NORMALLY BE SUBJECT TO  
14 THE DISCLOSURE REQUIREMENTS, SUCH AS STAFF  
15 OFFICER, STAFF LOAN OFFICER, EXCUSE ME.  
16 AND THEN FINALLY, WE HAVE SOME  
17 MODIFICATIONS TO THE DISCLOSURE CATEGORIES.  
18 SINCE THIS CONFLICT OF INTEREST CODE WAS LAST  
19 REVISED IT'S BECOME APPARENT THAT THERE ARE A  
20 NUMBER OF OTHER ENTITIES THAT ARE POTENTIALLY  
21 SUBJECT TO BOARD REGULATION, THE DECISIONS MADE  
22 BY THE BOARD. THE PREVIOUS VERSION, AS YOU'LL  
23 SEE LOOKING AT THE STRIKEOUT UNDERLINE, WAS VERY  
24 SPECIFIC TO INVESTMENTS AND IN-COMMON INTERESTS  
25 IN TRANSFER STATIONS, LANDFILLS, THAT SORT OF

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1 THING.  
2 AND OF COURSE, AS YOU KNOW, WE HAVE A  
3 NUMBER OF OTHER BUSINESS ENTITIES THAT ARE  
4 POTENTIALLY AFFECTED BY THE BOARD'S DECISION.  
5 NEWSPRINT WHICH WAS TALKED ABOUT TODAY, RPPC, AND  
6 WHAT'S THE OTHER ONE I ADDED, TRASH BAG  
7 MANUFACTURERS.  
8 SO WHAT I'VE DONE, ATTEMPTED TO DO IN  
9 THE REVISION TO THIS, IS TO BROADEN THE WAY THAT  
10 THE DISCLOSURE CATEGORIES ARE PHRASED TO SIMPLY  
11 SAY ANYBODY -- ENTITY SUBJECT TO REGULATION BY  
12 THE BOARD, AND THEN ADDED IS A LIST OF INCLUDING  
13 BUT NOT LIMITED TO, SORT OF TO JOG THE MEMORY,  
14 THOSE THREE TYPES OF MANUFACTURERS THAT I  
15 MENTIONED.  
16 JUST A COUPLE OF THINGS, BECAUSE  
17 THESE QUESTIONS ALWAYS COME UP WHEN WE DEAL WITH  
18 CONFLICT OF INTEREST CODES.  
19 THE CRITERIA, AND THE REASON THERE  
20 ARE SO MANY JOB CLASSIFICATIONS ON THE BOARD'S  
21 CONFLICT OF INTEREST CODE, IS WHETHER OR NOT  
22 SOMEONE IN THAT POSITION POTENTIALLY IS INVOLVED  
23 IN OR PARTICIPATING IN A GOVERNMENTAL DECISION.  
24 AND HERE AT THE BOARD LEVEL, ESSENTIALLY AN  
25 AGENDA ITEM OR HELPING TO PREPARE AN AGENDA ITEM

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1 FALLS WITHIN THAT BROAD RANGE.  
2 BUT THE OTHER THING THAT'S IMPORTANT  
3 TO KEEP IN MIND IS THE FACT THAT SOMEBODY'S  
4 LISTED AS HAVING TO FILE A STATEMENT OF ECONOMIC  
5 INTEREST AND/OR THE FACT THAT THEY MIGHT HAVE AN  
6 INTEREST TO DISCLOSE IS NOT A VIOLATION OF ANY  
7 TYPE. THIS IS A SUNSHINE LAW, IT'S ESSENTIALLY  
8 DESIGNED TO HELP PEOPLE BOTH WITHIN AND OUTSIDE  
9 OF THE ORGANIZATION TO PREVENT CONFLICTS OF  
10 INTEREST FROM HAPPENING, SO THAT PEOPLE KNOW WHAT  
11 INTERESTS THEY HAVE AND THEY KNOW WHAT DECISIONS  
12 TO STEER CLEAR OF.  
13 SO WHAT WE'RE ASKING FOR TODAY IS  
14 JUST APPROVAL TO GO OUT TO NOTICE FOR THE 45-DAY  
15 COMMENT PERIOD. THESE REVISIONS WOULD COME BACK  
16 TO THE BOARD EVENTUALLY AFTER THAT COMMENT  
17 PERIOD, AND THEN THEY WOULD GO THROUGH THE FPPC  
18 FOR APPROVAL.  
19 THERE IS A STATUTORY DEADLINE, BY THE  
20 END OF MAY, WHEN WE ARE SUPPOSED TO SUBMIT THESE  
21 TO THE FPPC, AND SO THAT'S WHY WE'RE COMING  
22 FORWARD THIS MONTH TO TRY TO GET THIS TAKEN CARE  
23 OF.

24 CHAIRMAN EATON: SENATOR ROBERTI.

25 MEMBER ROBERTI: JUST ONE QUESTION, AND

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1 THAT IS ON STAFF DISCLOSURE. I NOTE THAT EXEMPT  
2 POSITIONS HAVE TO DISCLOSE THEIR REAL ESTATE  
3 TRANSACTIONS AND CIVIL SERVICE DO NOT HAVE TO.  
4 AND I KIND OF THINK, MYSELF, WHETHER YOU DISCLOSE  
5 OR NOT SHOULD BE BASED ON YOUR AUTHORITY NOT ON  
6 YOUR CIVIL SERVICE STATUS.

7 MR. BLOCK: OKAY.

8 MEMBER ROBERTI: SO IF YOU JUST PUT THAT  
9 -- I GUESS THAT'S MY COMMENTS, NOW THAT WE'RE --

10 MR. BLOCK: COULD YOU POINT OUT TO ME THE  
11 POINT ON THE DISCLOSURE STATEMENT WHERE YOU  
12 BELIEVE THAT? BECAUSE I DON'T THINK WE SET IT  
13 OUT THAT WAY, AND SO MAYBE I NEED TO EXPLAIN HOW  
14 WE GOT THAT.

15 IN TERMS OF THE REAL ESTATE --

16 MEMBER ROBERTI: ON APPENDIX 1, ASSISTANT  
17 DIRECTORS AND COMMITTEE ANALYSTS ARE REQUIRED TO  
18 DISCLOSE ITEM 1 WHICH I UNDERSTAND IS REAL  
19 ESTATE, BUT OTHERS DON'T HAVE TO DO THAT.

20 MR. BLOCK: OKAY. YEAH, ACTUALLY THE WAY  
21 THAT THE CONFLICT OF INTEREST CODE IS SET UP — 22 AND ESSENTIALLY  
THAT'S -- IT'S HISTORICAL MORE  
23 THAN ANYTHING ELSE, SO IF THAT'S CONFUSING WE CAN  
24 CERTAINLY MODIFY THAT.  
25 CATEGORY 1 IS ANY REAL PROPERTY IN

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1 CALIFORNIA. AND SO THOSE POSITIONS THAT AREN'T  
2 GEOGRAPHICALLY LINKED, IF YOU WILL -- WHETHER  
3 THAT'S ADVISORS, OR DIRECTORS, OR DEPUTY  
4 DIRECTORS OR THE LINE -- WILL BE ONE THROUGH  
5 FIVE.  
6 DISCLOSURE CATEGORY 6 IS REAL  
7 PROPERTY WITHIN A JURISDICTION THAT YOU'RE  
8 ASSIGNED TO WORK WITH. AND SO IN THE PERMITTING  
9 AND ENFORCEMENT DIVISION, FOR INSTANCE, AND THE  
10 DIVISION OF LOCAL PLANNING AND LOCAL ASSISTANCE,  
11 WHERE THERE ARE GEOGRAPHICAL ASSIGNMENTS, STAFF  
12 IS ASSIGNED TO PARTICULAR COUNTIES, THEY WOULD BE  
13 HAVING TO DISCLOSE REAL PROPERTY IF THEY OWN IT  
14 IN THOSE COUNTIES THAT THEY ARE --  
15 MEMBER ROBERTI: THAT'S CATEGORY 6 --  
16 MR. BLOCK: -- ASSIGNED TO. THAT'S  
17 CATEGORY 6.  
18 AND SO THAT'S WHY YOU SEE SOMETIMES  
19 ONE THROUGH FIVE, AND SOMETIMES TWO THROUGH SIX.  
20 MEMBER ROBERTI: OKAY. ONE IS A GENERIC  
21 THROUGHOUT CALIFORNIA --  
22 MR. BLOCK: ALL OF CALIFORNIA, RIGHT.  
23 MEMBER ROBERTI: OKAY, ONE IS GENERIC SO  
24 I CAN SEE THIS COMMITTEE ANALYST --  
25 MR. BLOCK: RIGHT.



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1 MEMBER ROBERTI: AND YOU'RE SAYING THAT  
2 ONE DOES NOT APPLY -- DOES APPLY TO CIVIL SERVICE  
3 SLOTS. ESSENTIALLY, I KNOW YOU HAVEN'T ORGANIZED  
4 IT —

5 MR. BLOCK: RIGHT.

6 MEMBER ROBERTI: -- WHERE THEY WOULD HAVE  
7 MORE GENERIC AUTHORITY AS OPPOSED TO GEOGRAPHIC  
8 AUTHORITY.

9 MR. BLOCK: RIGHT. RIGHT. I MEAN,  
10 CERTAINLY, IF THERE IS SOME WAY THAT WE CAN MAKE  
11 THAT CLEARER, IF THAT'S A PROBLEM, THIS IS THE  
12 OPPORTUNITY TO MAKE SOME ADJUSTMENTS.

13 MEMBER ROBERTI: OH, WELL, I THINK IT  
14 SHOULD BE MADE -- I THINK THAT SHOULD BE  
15 SPECIFIED. BECAUSE IF THERE IS EVER ANY  
16 CONFUSION AS TO WHAT WE MEANT BY THIS, I THINK  
17 THAT CLARIFICATION WOULD BE LIKE OUR OWN INTERNAL  
18 REGULATION AS TO WHAT WE MEANT, AND THAT WE WERE  
19 UNDERTAKING CASES WHERE THE PERSON WAS MAKING  
20 DECISIONS IN SOUTHERN CALIFORNIA -- SOUTHERN  
21 CALIFORNIA DECISION BUT THEIR AUTHORITY WAS IN  
22 BUTTE COUNTY, UKIAH.

23 MR. BLOCK: WELL, YOU KNOW, IF IT'S THE  
24 PLEASURE OF THE BOARD, I CAN CERTAINLY --

25 MEMBER ROBERTI: YEAH, THAT'S --

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1 (THE PARTIES SIMULTANEOUSLY SPEAK.)

2 MR. BLOCK: -- TWEAK THIS LANGUAGE TO  
3 CLARIFY THAT BEFORE IT GOES OUT TO NOTICE, IF  
4 THAT'S WHAT YOU WOULD LIKE.

5 CHAIRMAN EATON: ANY OTHER QUESTIONS?  
6 I HAVE JUST A COUPLE. AS WE HAVE TO  
7 UPDATE THIS, WHEN WOULD THIS BE APPLICABLE?  
8 WOULD IT BE APPLICABLE TO THE CURRENT TIME FRAME  
9 FOR THE REST OF US WHO HAVE ALREADY BEEN INCLUDED  
10 IN THE CATEGORY, AND IN ESSENCE, EITHER MARCH 1ST  
11 OR APRIL 1ST, WILL THESE NEW DESIGNATED  
12 CATEGORIES HAVE TO FILE EVEN THOUGH WE'RE JUST  
13 OUT CIRCULATING?

14 MR. BLOCK: THIS ACTUALLY WOULDN'T APPLY  
15 -- IT WOULD -- WELL, ESSENTIALLY IT'LL APPLY TO  
16 THIS YEAR, BUT IT'LL BE THE FILING FOR NEXT YEAR.  
17 SO THE FILING THAT HAS TO OCCUR ON APRIL 1ST OF  
18 THIS YEAR IS NOT SUBJECT TO THIS CHANGE.  
19 WE HAVE FOR A FEW OF THESE POSITIONS  
20 -- AS I MENTIONED, THERE'S A HANDFUL THAT HAVE  
21 BEEN ADDED SINCE THE LAST TIME WE REVISED IT --  
22 WHAT GENERALLY WE DO IS WE -- BECAUSE IT'S A  
23 SUNSHINE REQUIREMENT --

24 CHAIRMAN EATON: RIGHT.

25 MR. BLOCK: -- WE HAVE -- AND THERE

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1 AREN'T THAT MANY PEOPLE THAT HAVE SIGNIFICANT  
2 HOLDINGS WITHIN THE BOARD -- WE'VE GENERALLY  
3 ADVISED STAFF IN THOSE POSITIONS THAT THEY MIGHT  
4 WANT TO GO AHEAD AND DO IT. BUT IF SOMEBODY  
5 OBJECTS WE CERTAINLY CANNOT REQUIRE SOMEBODY IN  
6 THOSE ADDITIONAL POSITIONS TO FILE YET.

7           CHAIRMAN EATON: THAT WASN'T A BACKHANDED  
8 WAY TO ASK FOR A PAY RAISE, WAS IT?  
9 BUT, NO, THE REASON WHY I ASKED THE  
10 QUESTION, THAT IF IT WAS -- ONE OF THE THINGS,  
11 HAVING BEEN THROUGH THIS, THERE IS NOTHING MORE  
12 SHOCKING TO FIND YOURSELF ALL OF A SUDDEN HAVING  
13 TO FILL OUT ONE OF THESE REPORTS.

14 I WOULD HOPE THAT AS WE GET THROUGH -  
15 - AND I KNOW THAT THE LEGAL DEPARTMENT ALWAYS HAS  
16 THIS ON THEIR BULLETIN BOARD -- BUT, THAT WE  
17 WOULD AT LEAST PROVIDE NOTICE TO THOSE EMPLOYEES  
18 WHO WERE ADDED OVER THE COURSE OF THE NEXT, YOU  
19 KNOW, SEVERAL MONTHS.

20 AND, TWO, THAT WE PROVIDE ADEQUATE  
21 TRAINING. BECAUSE WHEN YOU SIT DOWN AND YOU FIND  
22 OUT THAT YOUR SPOUSE, IF THE CASE MAY BE, MAY  
23 ALSO BE INCLUDED, AND HIS OR HER ASSETS ARE  
24 INCLUDED -- THERE ARE OTHER KINDS OF SHOCKS --  
25 AND ALL OF US WHO ARE HERDED INTO THESE HUGE

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1 HEARING ROOMS FROM TIME TO TIME, IT IS IMPORTANT.  
2 SO I KNOW THAT THAT'S A PROCESS  
3 THAT'S GOING TO GO, BUT I WAS JUST WONDERING IF  
4 IT WASN'T APPLICABLE AT THIS TIME.  
5 MR. BLOCK: AND THAT'S ACTUALLY THE  
6 REASON WHY WE DO RECOMMEND FOR THOSE POSITIONS  
7 THAT HAVE BEEN ADDED THAT THEY GO THROUGH THE  
8 EXERCISE OF FILLING THIS OUT, BECAUSE THAT'S ONE  
9 OF THE WAYS THAT THEY CAN FIND OUT IF THEY HAVE  
10 AN ISSUE THAT THEY NEED TO WORRY ABOUT.  
11 IN TERMS OF THE TRAINING, WE HAVE  
12 TRIED ON A COUPLE OF PAST YEARS TO DO SOME BOARD-  
13 WIDE TRAINING, AND IT TENDS NOT TO BE ATTENDED  
14 FAIRLY WELL. AND SO WE'VE GONE TO A CASE-BY-CASE  
15 SORT OF -- THERE'S A -- KELLIE MESSENGER, IN THE  
16 ADMINISTRATIVE DIVISION, AND MYSELF BASICALLY  
17 MAKE OURSELVES AVAILABLE WHEN PEOPLE HAVE  
18 QUESTIONS.  
19 IN TERMS OF THE NOTICE, THE  
20 REQUIREMENT I MENTIONED, IT'S A MODIFIED  
21 REGULATION. IT'S NOT A PUBLIC NOTICE IN THE SAME  
22 WHAT THAT OUR TYPICAL REGULATIONS ARE DONE HERE.  
23 BUT WE ARE REQUIRED SPECIFICALLY TO NOTIFY ALL  
24 AFFECTED STAFF WITHIN THE BOARD, EITHER THROUGH  
25 BULLETIN BOARDS OR THROUGH E-MAILS, AND MAKE SURE

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1 THAT THEY'RE AWARE OF THE CHANGE AND HOW IT MIGHT  
2 AFFECT THEM.

3 MEMBER JONES: MR. CHAIRMAN?

4 CHAIRMAN EATON: MR. JONES.

5 MEMBER JONES: I'D LIKE TO MOVE THE  
6 APPROVAL OF THE FORMAL NOTICING OF THE PROPOSED  
7 REVISIONS TO THE CONFLICT OF INTEREST CODE.

8 CHAIRMAN EATON: AND THAT WOULD INCLUDE  
9 SENATOR ROBERTI'S DIRECTION TO INCLUDE THAT ONE  
10 SECTION?

11 MEMBER JONES: YEP.

12 CHAIRMAN EATON: DO WE HAVE A SECOND?

13 MR. FRAZEE: SECOND.

14 CHAIRMAN EATON: ALL RIGHTY, MR. JONES  
15 MOVES, AND MR. FRAZEE SECONDS, THAT WE FORMALLY  
16 APPROVE THE CIRCULATION OF THE REVISIONS OF THE  
17 CONFLICT OF INTEREST CODE.

18 DO WE HAVE ANY OBJECTIONS TO  
19 SUBSTITUTING THE PREVIOUS ROLL CALL FOR THIS?  
20 HEARING NO OBJECTIONS, SO SHALL BE ORDERED.

21 ITEM NO. 10: CONSIDERATION OF A REVISED  
22 SOLID WASTE FACILITY PERMIT FOR CONSOLIDATED  
23 VOLUME TRANSPORTERS (CVT) REGIONAL MATERIAL  
24 RECOVERY AND TRANSFER FACILITY, ORANGE COUNTY

25 CHAIRMAN EATON: ITEM NO. 10,

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1 CONSIDERATION OF A REVISED SOLID WASTE PERMIT FOR  
2 CONSOLIDATED VOLUME TRANSPORTERS REGIONAL  
3 MATERIAL RECOVERY AND TRANSFER FACILITY.  
4 MR. GEBRE-HAWARIAT: GOOD MORNING, MY  
5 NAME IS TADESE GEBRE-HAWARIAT OF THE PERMITS AND  
6 INSPECTION BRANCH. THIS ITEM REGARDS THE  
7 CONSIDERATION OF A REVISED SOLID WASTE FACILITY  
8 PERMIT FOR THE CONSOLIDATED VOLUME TRANSPORTERS,  
9 OR CVT, REGIONAL MATERIAL RECOVERY FACILITY AND  
10 TRANSFER STATION IN ORANGE COUNTY. CVT IS OWNED  
11 AND OPERATED BY THE TAORMINA INDUSTRIES.  
12 THE PROPOSED PERMIT IS TO ALLOW THE  
13 FOLLOWING. AN EXPANSION OF THE TOTAL PERMITTED  
14 FACILITY SIZE FROM 11.4 TO 25 ACRES, AND THEN  
15 INCREASING THE MAXIMUM DAILY TONNAGE FROM 4,168  
16 TO 6,000 TONS PER DAY.  
17 BOARD STAFF AND THE LEA HAVE  
18 DETERMINED THAT ALL OF THE REQUIREMENTS FOR THIS  
19 PROPOSED PERMIT HAVE BEEN MET.  
20 AND IN CONCLUSION, STAFF RECOMMEND  
21 THAT THE BOARD ADOPT SOLID WASTE FACILITY PERMIT  
22 DECISION NO. 99-49, CONCURRING WITH THE ISSUANCE  
23 OF SOLID WASTE FACILITY PERMIT NO. 30-AB-0335.  
24 AND MS. PATRICIA HENSHAW,  
25 REPRESENTING THE LEA, IS HERE, AS IS MR. TOM

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1 BOYT, PRESIDENT AND CEO OF THE COMPANY, TO ANSWER  
2 ANY QUESTIONS THAT THE BOARD MEMBERS MAY HAVE.  
3 AND THIS CONCLUDES MY PRESENTATION.  
4 CHAIRMAN EATON: QUESTIONS?  
5 MEMBER FRAZEE: JUST ONE LITTLE --  
6 CHAIRMAN EATON: MR. FRAZEE.  
7 MEMBER FRAZEE: MAYBE I DON'T  
8 UNDERSTAND, BUT THE DIFFERENCE BETWEEN THE  
9 DESIGN CAPACITY AND THE PERMITTED TONNAGE -- IS  
10 THAT CORRECT? THE 8,000 TONS IS THE DESIGN  
11 CAPACITY, BUT IT'S ONLY PERMITTED TO SIX?  
12 MR. GEBRE-HAWARIAT: THAT'S CORRECT. THE  
13 DESIGN CAPACITY IS WHAT THE -- IF THE CEQA  
14 DOCUMENTS AND OTHER LOCAL PERMITS WOULD ALLOW THE  
15 FACILITY TO APPLY FOR THAT AMOUNT IT CAN TAKE UP  
16 TO THE 8,000 TONS PER DAY. BUT FOR NOW, THE  
17 PERMIT LIMITS THE OPERATION OF THAT FACILITY TO  
18 THE 6,000 TONS PER DAY.  
19 MEMBER FRAZEE: OKAY.  
20 MEMBER PENNINGTON: MR. CHAIRMAN?  
21 CHAIRMAN EATON: MR. PENNINGTON.  
22 MEMBER PENNINGTON: I'D LIKE TO MOVE  
23 ADOPTION OF RESOLUTION NO. 1999-49, TO CONCUR IN  
24 THE ISSUANCE OF PERMIT NO. 30-AB-0335, FOR THE  
25 REVISED SOLID WASTE FACILITY PERMIT FOR THE

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1 CONSOLIDATED VOLUME TRANSFER REGIONAL MATERIAL

2 RECOVERY FACILITY AND TRANSFER STATION.

3 CHAIRMAN EATON: DO I HAVE A SECOND?

4 MEMBER JONES: I'LL SECOND.

5 CHAIRMAN EATON: ALL RIGHTY. MR.

6 PENNINGTON MOVES, AND MR. JONES SECOND, THAT WE

7 ADOPT RESOLUTION 1999-49. MRS. DOMINGUEZ, WOULD

8 YOU PLEASE CALL THE ROLL?

9 THE SECRETARY: BOARD MEMBERS FRAZEE?

10 MEMBER FRAZEE: AYE.

11 THE SECRETARY: JONES?

12 MEMBER JONES: AYE.

13 THE SECRETARY: PENNINGTON?

14 MEMBER PENNINGTON: AYE.

15 THE SECRETARY: ROBERTI?

16 MEMBER ROBERTI: AYE.

17 THE SECRETARY: CHAIRMAN EATON?

18 CHAIRMAN EATON: AYE.

19 BEFORE WE MOVE TO THE NEXT ITEM, THIS

20 IS ONE OF THE ITEMS THAT I'D LIKE FOR THE BOARD

21 MEMBERS TO KIND OF CONSIDER AS WE MOVE THROUGH

22 THE CONSENT CALENDAR FOR NEXT MONTH. WE HAD

23 PROPOSED SOME OF THESE PERMITS FOR THE CONSENT

24 CALENDAR. AS YOU WELL KNOW, WE DON'T HAVE THE

25 COMMITTEE MEETINGS AS WE HAD BEFORE, AND



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1 HOPEFULLY, WE'RE WORKING THROUGH SOME OF THOSE  
2 PROBLEMS.  
3 BUT THIS WOULD BE ONE OF THOSE TYPES  
4 OF ITEMS THAT I THINK WOULD BE HELPFUL TO HAVE  
5 YOUR INPUT AS TO WHETHER OR NOT PERMITS SUCH AS  
6 THESE, WHICH HAVE LITTLE OR NO CONTROVERSY, AND  
7 BASED UPON THE FACT THAT THERE ARE NO COMMITTEES,  
8 WHETHER OR NOT WE SHOULD -- THEY CAN BE ELIGIBLE  
9 FOR THE CONSENT CALENDAR. AND THAT'S JUST ONE  
10 ITEM AS WE'RE LOOKING THROUGH AS WE GO THROUGH.  
11 THE OTHER THING, TOO, IS I'D  
12 APPRECIATE ANY COMMENTS WITH REGARD TO THE ROLL  
13 CALL. I JUST FELT IT WAS IMPORTANT THAT ON  
14 PERMITS WE HAVE A ROLL CALL. IF WE DECIDE THAT  
15 IN THE FUTURE THAT THERE'S NOT A NEED AND WE  
16 COULD SUBSTITUTE, THAT WOULD BE HELPFUL. SO THAT  
17 WAS JUST ONE OF THOSE POINTS.  
18 ITEM NO. 11: CONSIDERATION OF A REVISED  
19 SOLID WASTE FACILITY PERMIT FOR RAMONA MATERIAL  
20 RECOVERY FACILITY AND TRANSFER STATION, SAN DIEGO)  
21 COUNTY  
22 CHAIRMAN EATON: HAVING PONTIFICATED  
23 ENOUGH ON THAT ITEM, WE'LL MOVE TO ITEM NO. 11.  
24 MEMBER JONES: ANOTHER CANDIDATE FOR A  
25 CONSENT CALENDAR.

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1           CHAIRMAN EATON: CORRECT. CONSIDERATION  
2 OF A REVISED SOLID WASTE PERMIT FOR RAMONA  
3 MATERIAL RECOVERY FACILITY.  
4           MR. GEBRE-HAWARIAT: AGAIN, THIS IS  
5 TADESE GEBRE-HAWARIAT OF THE PERMITS BRANCH.  
6 THE RAMONA RECOVERY AND TRANSFER  
7 STATION IS OWNED AND OPERATED BY THE RAMONA  
8 DISPOSAL SERVICE COMPANY IN SAN DIEGO COUNTY.  
9 THE PROPOSED PERMIT IS TO ALLOW AN INCREASE IN  
10 THE MAXIMUM DAILY TONNAGE FROM 200 TO 370 TONS.  
11 AGAIN ON THIS ONE ALL THE  
12 REQUIREMENTS HAVE BEEN MET.  
13 AND IN CONCLUSION, STAFF RECOMMEND  
14 THAT THE BOARD ADOPT SOLID WASTE PERMIT DECISION  
15 NO. 99-65, CONCURRING WITH THE ISSUANCE OF SOLID  
16 WASTE FACILITY PERMIT NO. 37-AA-0925.  
17 AND MS. REBECCA LAFRENIERE, THE LEA,  
18 IS HERE TO ANSWER ANY QUESTIONS THAT THE BOARD  
19 MEMBERS MAY HAVE.  
20           MEMBER JONES: MR. CHAIRMAN.  
21           CHAIRMAN EATON: ANY QUESTIONS?  
22           MEMBER JONES: I'D LIKE TO MOVE  
23 RESOLUTION 1999-65, CONSIDERATION OF A REVISED  
24 SOLID WASTE FACILITY PERMIT FOR THE RAMONA  
25 MATERIALS RECOVERY FACILITY AND TRANSFER STATION

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1 IN SAN DIEGO COUNTY.

2 MEMBER PENNINGTON: SECOND.

3 CHAIRMAN EATON: EXCUSE ME, WITH MR.

4 FRAZEE TODAY, BEING FROM SAN DIEGO COUNTY, HIS

5 LAST DAY --

6 MEMBER PENNINGTON: OH, I'M SORRY.

7 CHAIRMAN EATON: NO. LAST DAY, HE DID

8 SECOND. SO MR. PENNINGTON --

9 MEMBER JONES: I CAN WAIT AND LET HIM

10 MAKE THE MOTION.

11 CHAIRMAN EATON: NO, PLEASE, WE'VE HAD

12 ENOUGH RECISION FOR TODAY. MR. JONES MOVES, AND

13 MR. FRAZEE SECONDS, THAT WE ADOPT THE RESOLUTION.

14 MADAM SECRETARY, PLEASE CALL THE ROLL.

15 THE SECRETARY: BOARD MEMBERS FRAZEE?

16 MEMBER FRAZEE: AYE.

17 THE SECRETARY: JONES?

18 MEMBER JONES: AYE.

19 THE SECRETARY: PENNINGTON?

20 MEMBER PENNINGTON: AYE.

21 THE SECRETARY: ROBERTI?

22 MEMBER ROBERTI: AYE.

23 THE SECRETARY: CHAIRMAN EATON?

24 CHAIRMAN EATON: AYE.

25 ITEM NO. 12: CONSIDERATION OF A REVISED

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1 SOLID WASTE FACILITY PERMIT FOR SAN ONOFRE

2 LANDFILL, SAN DIEGO COUNTY

3 CHAIRMAN EATON: NOW ITEM NO. 11,

4 CONSIDERATION OF A REVISED SOLID WASTE PERMIT FOR

5 SAN ONOFRE LANDFILL IN SAN DIEGO COUNTY.

6 MEMBER JONES: TWELVE.

7 MEMBER FRAZEE: THIS REALLY GETS CLOSE TO

8 HOME.

9 MEMBER JONES: I'M NOT GOING TO MAKE A

10 MOTION ON THIS ONE.

11 CHAIRMAN EATON: NOW WE NEED TO -- OH,

12 ITEM 12.

13 MR. GEBRE-HAWARIAT: ITEM 12 REGARDS THE

14 CONSIDERATION FOR A REVISED SOLID WASTE FACILITY

15 PERMIT FOR THE SAN ONOFRE LANDFILL, SAN DIEGO

16 COUNTY.

17 THE SAN ONOFRE LANDFILL IS OWNED AND

18 OPERATED BY THE UNITED STATES MARINE CORPS AT

19 CAMP PENDLETON. THE PROPOSED PERMIT IS TO ALLOW

20 THE FOLLOWING: AN INCREASE IN THE TOTAL

21 PERMITTED LANDFILL SIZE FROM 22.7 TO 32.6 ACRES,

22 WITH A 28.6-ACRE FOOTPRINT; AN INCREASE IN THE

23 MAXIMUM LANDFILL ELEVATION FROM 294 TO 330 FEET

24 ABOVE MEAN SEA LEVEL; AN INCREASE IN LANDFILL

25 CAPACITY FROM 590,000 TO 1,92 MILLION CUBIC

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1 YARDS; AND A CHANGE IN THE ESTIMATE OF THE  
2 LANDFILL CLOSURE PERIOD FROM THE YEAR 2010 TO THE  
3 YEAR 2257.  
4 BOARD STAFF HAVE DETERMINED THAT ALL  
5 THE REQUIREMENTS FOR THIS PROPOSED PERMIT HAVE  
6 BEEN MET.  
7 AMONG OTHER THINGS, THE PROPOSED  
8 DESIGN AND OPERATION OF THE FACILITY AS DESCRIBED  
9 IN THE SUBMITTED JOINT TECHNICAL DOCUMENT, OR  
10 JTD, WOULD ALLOW FOR A LANDFILL OPERATION IN  
11 COMPLIANCE WITH THE STATE MINIMUM STANDARDS.  
12 TWO, THAT THE SCOPE OF THE PROPOSED  
13 PERMIT IS CONSISTENT WITH THE NATIONAL  
14 ENVIRONMENTAL QUALITY ACT, OR NEPA DOCUMENTS THAT  
15 WERE SUBMITTED FOR COMPLIANCE WITH THE CALIFORNIA  
16 ENVIRONMENTAL QUALITY ACT, OR CEQA.  
17 HOWEVER, STAFF OF THE BOARD'S OFFICE  
18 OF LOCAL ASSISTANCE DETERMINED THAT THE PROPOSED  
19 PERMIT IS NOT CONSISTENT WITH THE DESCRIPTION OF  
20 THE FACILITY IN THE COUNTY SITING ELEMENT.  
21 AT THE JANUARY 27, 1999, BOARD  
22 MEETING THE BOARD DISCUSSED THE ISSUE OF FINDING  
23 OF CONFORMANCE WITH THE COUNTY INTEGRATED WASTE  
24 MANAGEMENT PLAN, OR CIWMP, AND SPECIFICALLY THE  
25 SITING ELEMENT OF THE CIWMP AS REQUIRED IN PUBLIC

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1 RESOURCE CODE SECTION 15001.  
2 AT THE MEETING BOARD DIRECTED THAT  
3 WHEN THERE ARE DISCREPANCIES BETWEEN A PROPOSED  
4 PERMIT FOR A FACILITY AND THE DESCRIPTION OF THE  
5 FACILITY IN THE APPLICABLE SITING ELEMENT, STAFF  
6 ARE TO BRING THE MATTERS OF THE FINDINGS OF  
7 CONFORMANCE TO THE BOARD FOR A CONSIDERATION ON A  
8 CASE-BY-CASE BASIS.  
9 AS PART OF THE DIRECTIVE TO THE STAFF  
10 THE BOARD INDICATED THAT IN AN INTERIM REPORT  
11 THAT THE BOARD WOULD LOOK AT THE FOLLOWING  
12 FACTORS IN MAKING THEIR DETERMINATION OF  
13 CONFORMANCE WITH THE CIWMP: (1) EFFECTIVE (PHON)  
14 THE PROPOSED PERMIT REVISION ON THE PROVISION OF  
15 THE 15-YEAR DISPOSAL CAPACITY IN THE  
16 JURISDICTION; (2) THREATS TO THE PUBLIC HEALTH  
17 AND THE ENVIRONMENT THAT MAY RESULT FROM THE  
18 ISSUANCE OF THE REVISED PERMIT; (3) OPPOSITION TO  
19 THE PROPOSED PERMIT REVISION FROM NEIGHBORING  
20 JURISDICTIONS; AND (4) ANY OTHER RELEVANT  
21 INFORMATION THAT THE BOARD MAY FIND AS IT  
22 CONSIDERS THE PROPOSED PERMIT.  
23 BOARD STAFF REVIEWED AND STUDIED THE  
24 FACTORS THAT THE BOARD STATED IT WOULD NEED TO  
25 ESTABLISH IN MAKING THE FINDING OF CONFORMANCE

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1 FOR THE PROPOSED REVISED PERMIT, AND WE PROVIDE  
2 THE FOLLOWING DETERMINATION.  
3 STAFF HAVE DETERMINED THAT THE  
4 ISSUANCE OF THE PROPOSED REVISED PERMIT FOR SAN  
5 ONOFRE LANDFILL WILL NOT ADVERSELY IMPACT THE  
6 COUNTY OF SAN DIEGO'S ABILITY TO MAINTAIN AT  
7 LEAST 15 YEARS OF DISPOSAL CAPACITY.  
8 STAFF HAVE FURTHER DETERMINED THAT  
9 THERE ARE NO POTENTIAL THREATS TO THE PUBLIC  
10 HEALTH AND THE ENVIRONMENT AS A RESULT OF THE  
11 ISSUANCE OF THE PROPOSED REVISED PERMIT.  
12 THE JTD THAT WAS SUBMITTED WITH THE  
13 APPLICATION FOR THE PROPOSED REVISED PERMIT  
14 PROVIDES ADEQUATE ENVIRONMENTAL CONTROL MEASURES  
15 THAT WOULD BE PRACTICED IN THE OPERATION OF THE  
16 LANDFILL.  
17 AND STAFF HAVE ALSO FOUND THAT THERE  
18 ARE NO OPPOSITION TO THE PROPOSED PERMIT THAT WE  
19 HAVE EITHER DIRECTLY RECEIVED OR TRANSMITTED FROM  
20 THE LEA.  
21 AND WHEN THE AGENDA ITEM WAS PREPARED  
22 WE DIDN'T HAVE A RECOMMENDATION BECAUSE WE WERE  
23 STUDYING THESE ISSUES THAT THE BOARD NEEDED TO  
24 MAKE THE FINDING OF CONFORMANCE, AND NOW WE HAVE.  
25 AND ON THE BASIS OF THESE DETERMINATIONS STAFF

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1 RECOMMEND THAT THE BOARD ADOPT SOLID WASTE  
2 FACILITY PERMIT DECISION NO. 99-66, CONCURRING  
3 WITH THE ISSUANCE OF SOLID WASTE FACILITY PERMIT  
4 NO. 37-AA-0902.

5 AND AGAIN, THE LEA IS HERE, AS IS MR.  
6 TOM DECOSTA REPRESENTING THE MARINE CORPS, TO  
7 ANSWER ANY QUESTIONS YOU MAY HAVE.

8 CHAIRMAN EATON: ANY QUESTIONS OR  
9 DISCUSSION? SENATOR ROBERTI.

10 MEMBER ROBERTI: YEAH. I NOTE THAT THIS  
11 PERMIT IS FOR 247 YEARS. AND I RECOGNIZE THAT WE  
12 REVIEW THIS EVERY FIVE YEARS. HOWEVER, I'M  
13 ADVISED BY COUNSEL THAT WE CANNOT MAKE DURATION  
14 OF THE PERMIT A CRITERION FOR A YES OR NO VOTE.  
15 BUT, I DON'T WANT TO INFERENTIALLY BE  
16 VOTING ON SOMETHING WHERE I HAVE MADE A FINDING  
17 IN MY OWN MIND, OR I'M APPROVING THAT THERE'S  
18 GOING TO BE NO HEALTH PROBLEM FOR THE NEXT 247  
19 YEARS. I HAVE NO WAY OF KNOWING UNDER THE SUN  
20 WHETHER THAT'S THE CASE. AND, YOU KNOW, WHAT NEW  
21 KNOWLEDGE WE'RE GOING TO FIND OUT ABOUT SCIENCE,  
22 CHEMISTRY, THE ENVIRONMENT THAT, YOU KNOW, NONE  
23 OF US HAVE ANY CAPACITY OF KNOWING.  
24 AND I JUST -- I MEAN, ON THE ONE HAND  
25 IS, YOU KNOW, WE'RE GOING TO BE REVIEWING IT



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1 EVERY FIVE YEARS AND THIS IS NOT A PROBLEM. BUT  
2 ON THE OTHER HAND, I MEAN, I JUST THINK IT'S  
3 HORRENDOUS THAT WE ARE MAKING THIS APPROVAL FOR,  
4 YOU KNOW, OVER -- FOR ONE QUARTER OF THE NEXT  
5 MILLENNIUM.  
6 SO, I JUST — I THINK FIRST IT CRIES  
7 OUT FOR REMEDIAL LEGISLATION, THAT WE NEVER LET  
8 THIS HAPPEN AGAIN THAT WE'RE MAKING THIS KIND OF  
9 AN APPROVAL.  
10 AND, SECONDLY, I MEAN, IF I DO VOTE  
11 YES IT WILL BE CONTINGENT ON THE FACT THAT I  
12 UNDERSTAND I HAVE NO OPTION TO HAVE DURATION AS A  
13 CRITERION. BUT, IF INFERENTIALLY I'M VOTING THAT  
14 THERE'S NO HEALTH PROBLEM, AS I HEARD IN THE  
15 PRESENTER'S REMARKS, THAT STAFF FOUND THAT THAT  
16 REQUIREMENT HAD BEEN MET, WELL, I'M NOT GOING TO  
17 VOTE FOR THAT UNDER THOSE CIRCUMSTANCES.  
18 SO MAYBE CAN SOMEBODY HELP ME, IF I  
19 AM, IF I CAST AN AYE VOTE, INFERENTIALLY STATING  
20 THAT THERE IS GOING TO BE NO SIGNIFICANT HEALTH  
21 PROBLEM?

22 CHAIRMAN EATON: STAFF?

23 MR. GEBRE-HAWARIAT: I THINK ABOUT THE  
24 ONLY THING I WOULD WANT TO ADD IS THAT THE  
25 ESTIMATED LIFE IS ONLY A REFLECTION OF THE WAY

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1 THE NUMBERS WORK OUT, WHEN YOU KNOW IN THE  
2 PROPOSED PERMIT YOU HAVE A GIVEN CAPACITY, AND  
3 THERE'S A RATE OF HOW FAST THAT CAPACITY WILL BE  
4 CONSUMED BY THE DISPOSAL OF WASTE. AND IN THIS  
5 CASE THE NUMBERS SHOWED THAT THE FACILITY COULD  
6 CONCEIVABLY HAVE --

7 MEMBER ROBERTI: I UNDERSTAND THAT.

8 MR. GEBRE-HAWARIAT: OKAY.

9 MEMBER ROBERTI: AND, ABSOLUTELY. AND I  
10 UNDERSTAND WHAT YOU'RE GETTING AT.  
11 MY POINT IS FOR THE CONFIDENCE THAT  
12 THE PUBLIC WOULD HAVE IN THIS BOARD AND ITS  
13 DECISIONS. IF SOMETHING GOES WRONG THAT WE CAN'T  
14 ANTICIPATE, AND AN ENTERPRISING PRESS PERSON THEN  
15 SAYS, AND YOU KNOW WHAT THE PEOPLE ON THAT BOARD  
16 DID, THEY APPROVED THIS THING FOR 247 YEARS.  
17 NOW, I UNDERSTAND THE MATHEMATICS  
18 INVOLVED IN YOUR CALCULATION, BUT I'M NOW TALKING  
19 ABOUT THE CONFIDENCE THE PUBLIC HAS ON THIS  
20 BOARD. AND IF THERE WAS A PROBLEM AND THEN THAT  
21 BECOMES THE STORY -- AS IT WOULD BE IF I WERE THE  
22 REPORTER, I'D MAKE IT THE STORY, AND THEN WE'D  
23 GET TO EXPLAIN -- I THINK IT WOULD TOTALLY ERODE  
24 THE CONFIDENCE THAT THE PUBLIC HAS IN THE MISSION  
25 OF THIS BOARD BY SOMETHING THAT WE'RE TREATING

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1 SORT OF AS PERFUNCTORY, BECAUSE THAT'S THE WAY  
2 THE NUMBERS WORK OUT. AND I UNDERSTAND THAT.  
3 SO I JUST THINK THIS KIND OF APPROVAL  
4 IS JUST FRAUGHT WITH ENORMOUS PERIL FOR THE  
5 CONFIDENCE THAT THE PUBLIC WILL HAVE IN THE  
6 OPERATION OF THE BOARD. NOT IN THE LEGITIMACY OF  
7 YOUR NUMBERS, WHICH I'M NOT REALLY QUARRELING  
8 WITH AT ALL.

9 CHAIRMAN EATON: MR. BLOCK.

10 MR. BLOCK: IF I MAY? ELLIOT BLOCK FROM  
11 THE LEGAL OFFICE. LET ME JUST SEE IF I CAN ALSO  
12 HELP, BECAUSE I WAS INVOLVED IN TRYING TO FRAME  
13 SOME OF THIS.  
14 IN THE STAFF PRESENTATION TAD WAS  
15 TALKING ABOUT THOSE FOUR FACTORS, AND THEY COME  
16 FROM THE BOARD'S DECISION LAST MONTH REGARDING  
17 CONFORMANCE FINDINGS -- AND IT'S KIND OF SMALL ON  
18 THE BOARD THERE, UNFORTUNATELY, LET ME ZOOM IN ON  
19 JUST THOSE FOUR.  
20 BUT IT WAS EFFECT ON THE PERMIT  
21 REVISION ON 15-YEAR CAPACITY. AND THEN I HAD  
22 WRITTEN IT OUT AS POTENTIAL THREATS TO THE  
23 ENVIRONMENT, OPPOSITION FROM NEIGHBORING  
24 JURISDICTIONS, AND ANY OTHER RELEVANT  
25 INFORMATION.

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1 AND I THINK PERHAPS WHAT WE SHOULD DO  
2 IN THE FUTURE, AND PERHAPS THIS WILL TAKE CARE OF  
3 THE DECISION FOR NOW, IF THAT SECOND CRITERIA,  
4 INSTEAD OF POTENTIAL THREATS TO THE ENVIRONMENT  
5 WAS KNOWN POTENTIAL THREATS TO THE ENVIRONMENT?  
6 BECAUSE I THINK THAT'S REALLY WHAT WE WERE  
7 TALKING ABOUT LAST MONTH.

8 MEMBER ROBERTI: YEAH.

9 MR. BLOCK: THESE CRITERIA WERE SPECIFIC  
10 TO THE CONFORMANCE FINDING DISCUSSION, NOT THE  
11 PERMIT REVIEW.

12 MEMBER ROBERTI: THAT CERTAINLY WOULD  
13 HELP. I STILL KIND OF THINK THAT THIS BOARD  
14 SHOULD SEEK REMEDIAL LEGISLATION THAT NEVER AGAIN  
15 WE HAVE TO VOTE ON A 247-YEAR PERMIT.

16 CHAIRMAN EATON: SO THE HEADLINE DOESN'T  
17 READ ONCE, TWICE, THREE, FOUR TIMES IN A BLUE  
18 MOON WE'LL BE THERE.

19 MEMBER ROBERTI: I MEAN, IT'S JUST  
20 RIDICULOUS.

21 MEMBER JONES: I HEAR YOU.

22 MEMBER PENNINGTON: SURE IT IS.

23 MEMBER ROBERTI: AND IT COULD SIMPLY  
24 CLOUD EVERYTHING WE'VE DONE THROUGH SOMETHING  
25 THAT'S STRICTLY A TECHNICALITY, THAT WE

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1 UNDERSTAND IS A TECHNICALITY BUT COULD DESTROY

2 THE BOARD.

3 CHAIRMAN EATON: MR. FRAZEE, AND THEN MR.

4 PENNINGTON.

5 MEMBER FRAZEE: I UNDERSTAND SENATOR

6 ROBERTI'S CONCERN. BUT I -- YOU KNOW, I STILL

7 THINK THERE ARE TWO SEPARATE ITEMS HERE, ONE IS

8 THE LIFE OF THE FACILITY VERSUS THE PERMIT. AND

9 I THINK YOU STATED CLEARLY THAT IT IS REVIEWED

10 EVERY FIVE YEARS. AND IF IT'S GOING FASTER OR

11 SOMETHING IS AMISS, THEN IT CAN BE WITHDRAWN AT

12 THAT POINT.

13 IT STAGGERS THE MIND THAT ANYONE

14 COULD CALCULATE A FACILITY THAT WOULD LAST FOR

15 THAT LONG. I GUESS IF YOU ONLY PUT ONE POUND IN

16 A DAY YOU COULD HAVE ONE THAT WOULD LAST 1,000

17 YEARS. BUT PERHAPS IT DOES NEED SOME CLEANING

18 UP.

19 COULD I JUST MAKE A COUPLE MORE

20 COMMENTS?

21 CHAIRMAN EATON: SURE, PLEASE. IT'S YOUR

22 DAY.

23 MEMBER FRAZEE: AND I HAVE VISITED THIS

24 FACILITY, AS WELL AS THE OTHER LANDFILL AT CAMP

25 PENDLETON, AS WELL AS THEIR RECYCLING SYSTEM,

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1 WHICH WAS GIVEN AN AWARD FROM THE DEPARTMENT OF  
2 DEFENSE AS THE BEST MILITARY RECYCLING SYSTEM IN  
3 THE ENTIRE DEPARTMENT OF DEFENSE JURISDICTION.  
4 THE THING THAT STRUCK ME ABOUT THESE  
5 LANDFILLS IS THE ABSOLUTE NEATNESS OF THESE  
6 OPERATIONS. THEY DON'T PRACTICE DAILY COVER,  
7 THEY PRACTICE HOURLY COVER. AND EVERY LOAD THAT  
8 IS DUMPED IS COVERED, THERE IS NOT A PAPER  
9 BLOWING ANYWHERE. IN FACT, THEY HAD A FELLOW ON  
10 A BICYCLE CHASING PAPERS THAT MAY GET AWAY AND  
11 PICKING THEM UP ONE BY ONE. SO IT WAS THE MOST  
12 OUTSTANDING FACILITY THAT I HAVE SEEN. THAT'S  
13 SPEAKING AS A FORMER MARINE.  
14 THE OTHER GOOD THING ABOUT THIS  
15 PERMIT WAS THE FACT THAT IT TRIGGERED MY  
16 REINSTATEMENT ON THE LIST OF INVITEES TO THE  
17 BATTLE COLOR CEREMONY NEXT WEEK AND, FORTUNATELY,  
18 I WILL BE THERE AFTER NOT HAVING BEEN ON THAT  
19 LIST WITH A GAP OF THREE OR FOUR YEARS, BUT  
20 HAVING BEEN INVITED THE PREVIOUS 20 YEARS. SO  
21 THAT'S -- I GUESS I NEED TO DISCLOSE THAT AS  
22 PERHAPS A BENEFIT FROM THIS PERMIT, WAS AN  
23 INVITATION TO VISIT CAMP PENDLETON AGAIN, WHICH I  
24 HAD AN INVITATION TO 49 YEARS AGO FROM THE  
25 COMMANDANT OF THE MARINE CORPS TO VISIT CAMP

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1 PENDLETON.

2 CHAIRMAN EATON: MUCH HAS NOT CHANGED.

3 MEMBER FRAZEE: NO.

4 CHAIRMAN EATON: MR. PENNINGTON.

5 MEMBER PENNINGTON: YEAH. I WAS JUST

6 GOING TO ASK -- I'M NOT SURE WHETHER I REMEMBERED

7 -- BUT WHEN THEY COME BACK FOR THE FIVE-YEAR

8 REVIEW DO THEY ALL COME BACK TO THE BOARD? OR IS

9 IT STAFF REVIEW IT, AND IF THE STAFF DECIDES THAT

10 IT NEEDS TO COME BACK FOR SOME REASON, IT COMES

11 BACK.

12 MS. TOBIAS: IT'S LEA REVIEW THAT

13 DETERMINES THAT.

14 MEMBER PENNINGTON: THE LEA, IT DOESN'T

15 COME BACK TO THE BOARD.

16 MS. TOBIAS: WELL, I THINK PERMITTING CAN

17 PROBABLY GO INTO THAT. BUT IT'S BASICALLY

18 DECIDED BY THE LEA, AND THEN IT COMES UP TO THE

19 BOARD IF THERE'S A CHANGE IN THE PERMIT.

20 MEMBER PENNINGTON: WELL, THAT MAKES

21 SENATOR ROBERTI'S OBJECTION EVEN MORE --

22 MS. TOBIAS: WELL, LET ME ADD TO THIS,

23 TOO, ALTHOUGH I THINK THAT IN TERMS OF WHAT

24 ELLIOT'S OFFERING, IN TERMS OF CRITERIA, THAT I

25 THINK WE CAN BUILD INTO THE REGULATIONS OVER

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1 TIME.  
2 BUT I WOULD ALSO SAY THAT I THINK THE  
3 CEQA PROCESS CONTROLS THIS TO A GREAT EXTENT.  
4 BECAUSE I THINK THAT IT'S TRUE THAT YOU COULD  
5 HAVE A LANDFILL WITH THIS CERTAIN DATE, IF THEY  
6 NEVER DID ANYTHING ELSE THAT WOULD TRIGGER CEQA  
7 THAT IT COULD COAST THROUGH TO THAT TIME PERIOD.  
8 BUT I THINK THAT WHAT HAPPENS IS THAT  
9 EVERY TIME A LANDFILL DOES MAKE A CHANGE IT HAS  
10 TO BE EVALUATED AS TO WHETHER THERE'S A POTENTIAL  
11 SIGNIFICANT EFFECT. UNDER CEQA IF THERE'S ANY  
12 KIND OF DISCRETIONARY DECISION THAT TRIGGERS A  
13 DISCRETIONARY REVIEW ON THE PART OF THE LEA AS  
14 WELL AS THE INDIVIDUAL JURISDICTION.  
15 SO I DO THINK THAT MOST OF THE TIME  
16 THE ENVIRONMENTAL DOCUMENTS DO DESCRIBE WHAT THE  
17 POTENTIAL IMPACTS ARE GOING TO BE OUT TO THAT  
18 CLOSURE DATE. IT'S NOT A GUARANTEE, I'M JUST  
19 SAYING THAT I DO THINK THAT THERE IS SOME  
20 ADDITIONAL PROTECTION THERE. AND THAT'S NOT TO  
21 SAY THAT I DON'T THINK THIS NEEDS TO BE ADDRESSED  
22 IN LEGISLATION, BUT I DO THINK THAT'S ONE ISSUE  
23 OF PROTECTION.  
24 MEMBER JONES: MR. CHAIRMAN?  
25 CHAIRMAN EATON: MR. JONES.



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1           MEMBER JONES: I THINK, TOO, YOU KNOW,  
2 WE'RE LOOKING AT A 28-ACRE FACILITY AND A 50-TON-  
3 A-DAY FILL RATE. THE FACT THAT THEY'RE COVERING  
4 AFTER EVERY LOAD HAS PROBABLY TAKEN A GOOD 20, 30  
5 YEARS OF CAPACITY OUT OF THIS THING.  
6           MEMBER ROBERTI: ONLY 217 YEARS.  
7           MEMBER JONES: I'D NEVER DO IT AS AN  
8 OPERATOR.  
9 BUT I THINK, YOU KNOW, MAYBE -- I  
10 MEAN, I KNOW THAT ESTIMATED CLOSURE DATES ARE --  
11 YOU KNOW, HOW WE CALCULATE POST-CLOSURE FUNDING,  
12 HOW WE MAKE SURE THAT WE'VE GOT THE 15-YEAR  
13 LANDFILL CAPACITY, AND MAYBE IT MAKES SOME SENSE  
14 ON THESE THAT ARE SO MINUSCULE IN SIZE, AND SO  
15 MINUSCULE ON THE AMOUNT OF WASTE THAT THEY TAKE,  
16 THAT MAYBE WE COME UP WITH SOMETHING THAT SAYS IN  
17 EXCESS OF, YOU KNOW, 20 YEARS OF CAPACITY.  
18 BECAUSE IT'S STILL GOING TO HAVE TO  
19 COMPLY WITH STATE MINIMUM STANDARDS. IF THERE IS  
20 A PROBLEM AND IT BECOMES A CHRONIC VIOLATOR, THEN  
21 IT IS GOING TO -- IT HAS EVERY CHANCE IN THE  
22 WORLD TO BE REVOKED, ANY ONE OF THEM, I MEAN ANY  
23 OF THEM.  
24 SO, BUT I UNDERSTAND WHAT YOU'RE  
25 SAYING. YOU KNOW, I WAS TRYING TO FIGURE OUT IF

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1 IT BECAME A MEGA-FILL, YOU KNOW, HOW LONG WOULD

2 IT LAST.

3 MEMBER ROBERTI: FROM WHAT I KNOW ABOUT

4 THIS LANDFILL, WHAT I'VE BEEN APPRISED BY STAFF,

5 WHICH IS COMMON SENSE READING THE ANTICIPATION IS

6 VERY, VERY REMOTE THAT ANYTHING DRASTIC WOULD

7 HAPPEN. BUT THE FACT IS, ALL YOU NEED IS

8 SOMETHING DRASTIC TO HAPPEN. AND THERE IS AN OLD

9 RULE IN POLITICS, ANYTHING YOU HAVE TO EXPLAIN IS

10 NOT TO YOUR BENEFIT. AND EXPLAINING 247 YEARS IS

11 INEXPLICABLE, IT'S INEXPLICABLE.

12 SO IF I VOTE AYE ON THIS I WOULD LIKE

13 TO BE ABLE TO PUT SOMETHING IN THE RECORD

14 EXPLAINING THE FACT THAT (A) I DON'T -- I AM

15 ADVISED I CANNOT MAKE DURATION A CRITERION ON MY

16 VOTE, AND SECOND, SEEKING -- ADVISING THAT I

17 WOULD LIKE TO SEEK REMEDIAL LEGISLATION. YOU

18 KNOW, THIS IS JUST A LITTLE PROTECTION THROUGH

19 EXPERIENCE.

20 CHAIRMAN EATON: ABSOLUTELY, AND SO

21 ACKNOWLEDGED.

22 PERHAPS MAYBE ONE OF THE WAYS TO

23 RESOLVE IT, IF IT DOESN'T MEET WITH ANY

24 OBJECTION, IS THAT --

25 MEMBER ROBERTI: AND MR. BLOCK'S REMARKS

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1 AS WELL.

2 CHAIRMAN EATON: RIGHT. RIGHT. THAT  
3 WHAT WE CAN DO IS, IF MR. CHANDLER CAN ASK THE  
4 STAFF TO (1) BOTH EXPLORE BOTH A LEGISLATIVE  
5 REMEDY IF FEASIBLE, BUT ALSO ANY REGULATORY  
6 AND/OR OTHER POSSIBLE WAYS -- EITHER FROM OUR OWN  
7 POLICY OR WORKING WITH THE GROUPS AS WE GO  
8 THROUGH -- TO CARRY OUT BOTH POINTS ONE AND TWO  
9 THAT YOU MENTIONED. AND I ALSO THINK THE  
10 INFERENCE IS ONE MAYBE OF CLARIFICATION IS WHAT  
11 WE NEED EITHER IN STATUTE OR SOME OF THE OTHER  
12 THINGS AS WELL. SO IF WE COULD DO THAT, AND THEN  
13 PERHAPS REPORT BACK TO US.  
14 AND WE DO HAVE PERHAPS AN OMINOUS  
15 BILL WHICH MAY OR MAY NOT BE CONTROVERSIAL OF  
16 THIS MATTER, BUT THAT WE MIGHT BE ABLE TO PLACE  
17 IN THERE, AND WORK WITH SOME OF THE INTEREST  
18 GROUPS AND SOME OF THE INDUSTRY GROUPS, AS WELL,  
19 TO SEE IF WE CAN'T RESOLVE THAT. IF THAT DOESN'T  
20 MEET WITH ANY OF MY FELLOW MEMBERS' OBJECTIONS,  
21 IF WE COULD DO THAT, THAT WOULD BE GREAT, BEFORE  
22 VOTING.

23 MEMBER JONES: MR. CHAIRMAN?

24 CHAIRMAN EATON: YES.

25 MEMBER JONES: I DON'T HAVE ANY PROBLEM

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1 WITH THAT, 257 IS PRETTY ABSURD.  
2 BUT I'D LIKE TO HAVE THE DISCUSSION  
3 BEFORE WE START A LEGISLATIVE INITIATIVE, BECAUSE  
4 WHAT'S THE RIGHT NUMBER? I MEAN, SOMEBODY THAT'S  
5 GOT A FACILITY THAT IS -- COULD POTENTIALLY HAVE  
6 A HUNDRED YEARS OF LIFE, OR 150 YEARS OF LIFE, IS  
7 THAT TOO MUCH? I DON'T KNOW.  
8 I MEAN, YOU BUY -- YOU KNOW, WE'VE  
9 SEEN IT TIME AND TIME AGAIN WHERE PROPERTY IS  
10 BOUGHT, IT'S GONE THROUGH THE PROCESS, PEOPLE  
11 KNOW WHAT'S GOING TO GO THERE. THE OPERATOR PUTS  
12 IT IN SEGMENTS, AND THEN IT GETS TO A SEGMENT  
13 WHERE EVERYBODY IN THE WORLD COMES OUT AND SAYS  
14 WE DON'T WANT THIS THING ANYMORE.  
15 50 I THINK THAT, YOU KNOW, WE -- I  
16 AGREE WITH WHAT YOU'RE SAYING, I UNDERSTAND THAT.  
17 BUT I'D ALSO LIKE TO BRING OUT SOME OF THE OTHER  
18 ISSUES OF, YOU KNOW, HOW ARE WE GOING TO GET  
19 FACILITIES DESIGNED, AND HOW ARE WE GOING TO HAVE  
20 LONG-TERM PLANNING. AND THESE ARE HUGE,  
21 EXPENSIVE ASSETS THAT PART OF WHAT YOU DO IS YOU  
22 LOOK AT -- FOR LENGTH. YOU KNOW? AND NOT SO  
23 MUCH THE MARINE CORPS ONE BUT, YOU KNOW WHAT I'M  
24 -- YOU KNOW --  
25 MEMBER ROBERTI: YEAH. I'M NOT

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1 SUGGESTING WE EVEN PUT A NUMBER ON, MAYBE THAT'S  
2 WHAT WE EVENTUALLY MIGHT DECIDE TO DO.  
3 WHAT I AM SUGGESTING IS DURATION  
4 SHOULD BE A CONSIDERATION THAT WE CAN FACTOR IN  
5 WHEN WE MAKE A DECISION AS TO WHETHER WE AGREE.  
6 AND SO WE VOTE THAT THIS PLACE HAS A LIFE SPAN OF  
7 THE YEAR 2100. OKAY, AS LONG AS I'M ABLE TO MAKE  
8 THAT PART OF MY CONSIDERATION I'M NOT FEARFUL  
9 ABOUT VOTING. SOME THINGS DO NEED A HUNDRED  
10 YEARS, OVER A HUNDRED YEARS I START WONDERING.  
11 BUT, I MEAN, A HUNDRED YEARS I CAN UNDERSTAND.  
12 BUT -- ESPECIALLY FOR THE KINDS OF THINGS WE DEAL  
13 WITH.

14 MEMBER JONES: RIGHT.

15 MEMBER ROBERTI: BUT I WANT THAT TO BE A  
16 FACTOR I CAN TAKE INTO CONSIDERATION. AND I'M  
17 ADVISED BY COUNSEL, AND I HAVE EVERY REASON THAT  
18 -- YOU KNOW, THEY'VE LOOKED AT THIS A LOT MORE  
19 THAN I HAVE -- THAT I CAN'T FACTOR THAT IN THE  
20 WAY THE LAW CURRENTLY IS WRITTEN.

21 MEMBER JONES: OKAY. NO, THAT'S GOOD.

22 CHAIRMAN EATON: AND I THINK AS IN -- MR.  
23 JONES, YOU'RE ABSOLUTELY RIGHT, BEFORE WE WOULD  
24 EVEN PROCEED GOING THAT WAY WE WOULD HAVE A  
25 DISCUSSION HERE WHERE THE BOARD WOULD ACTUALLY

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1 LOOK AT SOME OF THESE.

2 I THINK THERE ARE OTHER TYPES OF

3 THESE ITEMS, AS WELL, AS WE GET INTO THOSE

4 ISSUES, AS I FROM TIME TO TIME HAVE TREATED INTO

5 THE SWAMP OF PLANNING ISSUES, ONE KNOWN AS IMPEDE

6 AND IMPAIR. SO, I MEAN, YOU KNOW, I'M VERY

7 CAREFUL AS I SEE SOME OF MY FRIENDS OUT THERE.

8 BUT THIS COULD BE ONE OF THEM.

9 BUT IF WE CAN DO THAT, PERHAPS MAYBE,

10 YOU KNOW, IN 60 DAYS BRING IT BACK FOR A

11 DISCUSSION POINT, OR A DISCUSSION POINT ONLY, I

12 THINK THAT WOULD RAISE THE COMFORT LEVEL AND

13 ACTUALLY WOULD BE HELPFUL.

14 HAVING SAID THAT, IF THERE'S NO

15 FURTHER DISCUSSION --

16 MEMBER FRAZEE: MR. CHAIRMAN, I'D LIKE TO

17 MOVE ADOPTION OF RESOLUTION 1999-66, CONSIDERING

18 A REVISED SOLID WASTE FACILITY PERMIT FOR THE SAN

19 ONOFRE LANDFILL IN SAN DIEGO COUNTY.

20 MEMBER ROBERTI: AND ON THE MOTION, MR.

21 CHAIRMAN, THERE'S NO PROBLEM MY PUTTING A LETTER

22 IN?

23 CHAIRMAN EATON: NOT AT ALL. NOT AT ALL.

24 MEMBER ROBERTI: OKAY. THANK YOU.

25 MEMBER PENNINGTON: I'LL SECOND.

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1           CHAIRMAN EATON: MR. FRAZEE MOVES, AND  
2 MR. PENNINGTON SECONDS. MADAM SECRETARY, PLEASE  
3 CALL THE ROLL.  
4           THE SECRETARY: BOARD MEMBERS FRAZEE?  
5           MEMBER FRAZEE: AYE.  
6           THE SECRETARY: JONES?  
7           MEMBER JONES: AYE.  
8           THE SECRETARY: PENNINGTON?  
9           MEMBER PENNINGTON: AYE.  
10          THE SECRETARY: ROBERTI?  
11          MEMBER ROBERTI: AYE.  
12          THE SECRETARY: CHAIRMAN EATON?  
13          CHAIRMAN EATON: AYE.  
14 ALL RIGHT. I HAD HOPED TO GOT 16 AND  
15 17, BUT THIS DISCUSSION ON THIS ITEM TOOK A  
16 LITTLE BIT LONGER. SO WE'RE PRETTY MUCH THROUGH  
17 THE AGENDA. WHY DON'T WE TAKE A RECESS FOR LUNCH  
18 AND BE BACK HERE AT 1:30 PROMPTLY. AND WE WILL  
19 TAKE UP THE ISSUE AT THAT TIME OF THE REVISED  
20 SOLID WASTE FACILITY PERMIT FOR THE GUADALUPE  
21 LANDFILL. THANK YOU.  
22 (WHEREUPON, THE LUNCHEON RECESS WAS TAKEN.)  
23  
24  
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CHAIRMAN EATON: ALL RIGHTY, WELCOME BACK

24

EVERYONE FROM LUNCH. HOPEFULLY YOU HAD A LOVELY

25

LUNCH.



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1 JUST KIND OF A LITTLE DIRECTION. WE  
2 WILL TAKE UP ITEM NO. 13 RELATING TO THE  
3 GUADALUPE LANDFILL. AND THEN PER THE AGENDA  
4 ITEM, WE WILL THEN MOVE TO THE PUBLIC HEARING,  
5 WHICH WILL BE REGARDING THE WASTE TIRE  
6 REGISTRATION ITEMS FOR PUBLIC HEARING AS A  
7 SPECIAL ORDER OF BUSINESS SCHEDULED AT 2:00 P.M.,  
8 AND THEN GO BACK TO OUR REGULAR AGENDA.  
9 ANY *EX PARTES* DURING THE LUNCH HOUR?  
10 OKAY. WE'RE SORT OF A LONELY GROUP I THINK  
11 TODAY.

12 ITEM NO. 13: CONSIDERATION OF A REVISED  
13 SOLID WASTE FACILITY PERMIT FOR THE GUADALUPE  
14 LANDFILL, SANTA CLARA COUNTY

15 CHAIRMAN EATON: ITEM NO. 13, MS. NAUMAN.  
16 MS. NAUMAN: THANK YOU. GOOD AFTERNOON,  
17 MR. CHAIRMAN AND MEMBERS, JULIE NAUMAN, DEPUTY  
18 DIRECTOR OF THE PERMITTING AND ENFORCEMENT  
19 DIVISION.  
20 BEFORE STAFF MAKES A PRESENTATION  
21 JUST LET ME MAKE A COMMENT. YOUR DISCUSSION THIS  
22 MORNING ON THE SAN ONOFRE PERMIT, THE ISSUE OF  
23 WHAT ARE THE APPROPRIATE CRITERION FOR THE BOARD  
24 TO CONSIDER WHEN REVIEWING A SOLID WASTE FACILITY  
25 PERMIT WAS RAISED. LET ME JUST TAKE A MOMENT TO

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1 REVIEW WITH THE BOARD YOUR AUTHORITY AND  
2 RESPONSIBILITIES IN REVIEWING AND ACTING UPON  
3 SOLID WASTE FACILITY PERMITS.  
4 AS YOU KNOW, ONCE THE APPLICATION IS  
5 RECEIVED BY THE STAFF THE BOARD IS REQUIRED TO  
6 EITHER CONCUR OR OBJECT TO THE PROPOSED PERMIT  
7 WITHIN 60 DAYS. SECTION 44009A2 OF THE APRC  
8 STATES IN PART THAT THE BOARD SHALL OBJECT TO THE  
9 PROVISION OF A PERMIT IF THE BOARD DETERMINES  
10 THAT THE PERMIT IS NOT CONSISTENT WITH A NUMBER  
11 OF SPECIFIC PROVISIONS, INCLUDING STATE MINIMUM  
12 STANDARDS ADOPTED BY THE BOARD, FINANCIAL  
13 RESPONSIBILITY OBLIGATIONS, FINANCIAL ABILITY,  
14 STANDARDS ADOPTED BY THE BOARD, AND THE ISSUE OF  
15 CONFORMANCE WITH THE COMPREHENSIVE INTEGRATED  
16 WASTE MANAGEMENT PLAN. IN ADDITION, AS A  
17 RESPONSIBLE AGENCY, THE BOARD MUST ALSO ENSURE  
18 THAT CEQA HAS BEEN COMPLIED WITH.  
19 IF YOU DO NOT CONCUR WITH THE PERMIT  
20 AND CHOOSE TO OBJECT TO IT, THEN THE PERMIT,  
21 ALONG WITH YOUR -- OR PERMIT APPLICATION PACKAGE,  
22 ALONG WITH YOUR WRITTEN COMMENTS, IS THEN  
23 FORWARDED BACK TO THE LEA.  
24 SO, WITH THAT CLARIFICATION OF YOUR  
25 AUTHORITY AND RESPONSIBILITY FOR REVIEWING

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1 PERMITS, I'LL NOW TURN THE PRESENTATION OVER TO  
2 JOHN WHITEHILL.  
3 MR. WHITEHILL: GOOD AFTERNOON.  
4 THE GUADALUPE LANDFILL IS LOCATED  
5 ABOUT 10 MILES SOUTH OF THE CITY OF SAN JOSE.  
6 THE 150-ACRE SITE IS LOCATED ON A 411-ACRE PIECE  
7 OF PROPERTY. THE SURROUNDING LAND USE IS MOSTLY  
8 OPEN SPACE, COMMERCIAL, OR A COUNTY PARK.  
9 HOWEVER, SOME OF THE SURROUNDING LAND USE IS  
10 RESIDENTIAL NEIGHBORHOODS. THE CLOSEST RESIDENCE  
11 IS WITHIN 900 FEET OF THE LANDFILL PROPERTY  
12 BOUNDARY, WITHIN A QUARTER-MILE OF THE DISPOSAL  
13 SITE FOOTPRINT, AND SOME OF THOSE HOUSES ARE NEW  
14 AND SOME ARE STILL PROPOSED.  
15 THE CHANGES THAT ARE BEFORE YOU TODAY  
16 HAVE TO DO WITH CLARIFICATION OF THE TONNAGE  
17 BETWEEN THE 1991 PERMIT AND THE PROPOSED PERMIT,  
18 AND WE'LL GO INTO MORE DETAIL REGARDING THE  
19 TONNAGE A LITTLE BIT LATER.  
20 ALSO THERE IS AN INCREASE IN THE  
21 CAPACITY OF THE LANDFILL, AND A SLIGHT CHANGE IN  
22 THE CLOSURE, THE ESTIMATES, AND THOSE ARE DUE TO  
23 SOME WATER BOARD REQUIREMENTS THAT RECONFIGURED  
24 THE LANDFILL A LITTLE BIT.  
25 ALSO THE OPERATING HOURS ARE

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1 CHANGING.  
2 THIS NEW PERMIT DOES NOT ALLOW  
3 COMPOSTING, THE PREVIOUS PERMIT DID. AND THIS  
4 PERMIT ALLOWS AN INCREASE IN PROCESSING AND  
5 TRANSFER OF GREEN WASTE AT THE FACILITY.  
6 AND THERE ARE OTHER SITE DESIGN  
7 PARAMETERS THAT ARE MORE SPECIFICALLY DESCRIBED  
8 AND CONDITIONED BY THE REVISED PERMIT.  
9 NOW, AT THE TIME THAT THE AGENDA ITEM  
10 WENT TO PRINT THERE WERE STILL THREE UNRESOLVED  
11 ISSUES. THE FIRST WAS THE CONFORMANCE WITH THE  
12 INTEGRATED WASTE MANAGEMENT PLAN FOR THE COUNTY.  
13 THE SECOND WAS THE CLOSURE PLAN COMPLETENESS  
14 REVIEW. AND THE THIRD WAS CEQA COMPLIANCE. AND  
15 I'M GOING TO BRIEFLY SUMMARIZE THE ISSUES AND  
16 RECOMMENDATIONS RELATED TO EACH OF THOSE TOPICS.  
17 FIRST, THE INTEGRATED WASTE  
18 MANAGEMENT PLAN. THE BOARD IS REQUIRED TO OBJECT  
19 TO A PERMIT IF THE FACILITY IS NOT IDENTIFIED IN  
20 THE SITING ELEMENT. IN THIS CASE THE SITE IS  
21 IDENTIFIED IN THE SITING ELEMENT, HOWEVER THE  
22 SITE DESCRIPTION IN THE CIWMP IS DIFFERENT FROM  
23 THE PROPOSED PERMIT. THIS IS SIMILAR TO THE ITEM  
24 THAT WE HEARD JUST BEFORE LUNCH, AND SIMILAR TO  
25 THAT ITEM, WE WOULD NOT BE ABLE TO MAKE A FINDING

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1 THAT THEIR 15-YEAR COUNTY CAPACITY IS IMPACTED.  
2 AND SO, AS A RESULT, THIS ITEM IS NOT REALLY A  
3 CONSIDERATION FOR OBJECTION OR CONCURRENCE IN THE  
4 PERMIT TODAY. SO, SIMILAR TO THE ITEM JUST  
5 BEFORE THIS ONE, WE'RE DEFERRING TO THE BOARD AND  
6 NOT RECOMMENDING CONCURRENCE OR OBJECTION BASED  
7 ON THE CIWMP CONFORMANCE.  
8 THE SECOND ISSUE HAS TO DO WITH THE  
9 CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE BOARD  
10 AND THE LEA ARE REQUIRED TO MAKE A FINDING THAT  
11 THE PROPOSED PERMIT IS CONSISTENT WITH AND  
12 SUPPORTED BY EXISTING CEQA ANALYSIS.  
13 AND SO THE PROJECT DESCRIPTION OF THE  
14 ORIGINAL 1988 EIR FOR THIS FACILITY STATED THAT  
15 THE LANDFILL ACCEPTED 582 TONS PER DAY.  
16 MEMBER ROBERTI: WHAT WAS THAT AGAIN?  
17 MR. WHITEHILL: FIVE HUNDRED AND EIGHT-  
18 TWO TONS PER DAY. THAT WAS THE -- PART OF THE  
19 PROJECT DESCRIPTION OF THE ORIGINAL 1988 EIR.  
20 WHEN THE PERMIT WAS SUBMITTED TO THE  
21 BOARD IN OCTOBER OF 1991, THE PROPOSED PERMIT  
22 THAT WENT TO THE COMMITTEE AT THAT TIME ALLOWED  
23 THE FACILITY TO ACCEPT A PEAK OF 900 TONS PER  
24 DAY, AND DID NOT ALLOW COMPOSTING ON SITE.  
25 HOWEVER, IN 1991, BETWEEN THE

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1 COMMITTEE AND THE BOARD MEETINGS, THE 1991  
2 PROPOSED PERMIT WAS CHANGED TO ALLOW A PEAK OF  
3 3,000 TONS PER DAY. AND THE '91 PERMIT WAS ALSO  
4 CHANGED TO ALLOW COMPOSTING TO TAKE PLACE AT THE  
5 FACILITY.  
6 THE CEQA DOCUMENT USED TO SUPPORT THE  
7 3,000 TON-PER-DAY PEAK TONNAGE OF THE 1991 PERMIT  
8 WAS SUBMITTED AS AN ADDENDUM TO THE 1988 EIR.  
9 THE ADDENDUM ALSO STATED THAT THE PROPOSED  
10 MAXIMUM DISPOSAL RATE WOULD NOT AFFECT THE ANNUAL  
11 MAXIMUM FILL RATE.  
12 THE BOARD CONCURRED IN THE 1991  
13 PERMIT, WHICH NOW STATES THAT THE LANDFILL IS  
14 ALLOWED TO ACCEPT A DAILY MAXIMUM OF 3,000 TONS  
15 PER DAY, WITH A GRADUATED INCREASE ALLOWED UP TO  
16 3,650 TONS PER DAY.  
17 THE PERMIT ALSO ALLOWED COMPOSTING ON  
18 SITE.  
19 THE PERMIT ALSO STATES THAT THE  
20 PERMITTED PEAK OF 3,000 TONS PER DAY IS TO  
21 PROVIDE FOR MAXIMUM FLUCTUATIONS OF INCOMING  
22 TONNAGE. THE 1991 PERMIT DID NOT, HOWEVER,  
23 RESTRICT THE AVERAGE TONNAGE AT THE SITE.  
24 IN 1998 THE LEA SUBMITTED THEIR  
25 PERMIT REVIEW REPORT. THEY IDENTIFIED THE

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1 SIGNIFICANT CHANGES IN DESIGN AND OPERATION THAT  
2 I MENTIONED EARLIER. AND THEY REQUIRED THE  
3 OPERATOR TO SUBMIT AN APPLICATION FOR PERMIT  
4 REVISION, AND TO SUBMIT CEQA DOCUMENTATION IF  
5 NECESSARY.

6 THE CURRENT PROPOSED PERMIT, IN  
7 ADDITION TO ALLOWING THE PEAK TONNAGE OF THE  
8 PREVIOUS PERMIT OF 3,650 TONS PER DAY, THE  
9 PROPOSED PERMIT BEFORE YOU TODAY ALLOWS THE SITE  
10 TO ACCEPT AN AVERAGE OF 3,000 TONS PER DAY.

11 MEMBER ROBERTI: MR. CHAIRMAN?

12 CHAIRMAN EATON: YES, SENATOR.

13 MEMBER ROBERTI: THE 1991 PERMIT WAS  
14 ALLOWED FOR THREE THOUSAND?

15

16 MR. WHITEHILL: THAT IS CORRECT.

17 MS. NAUMAN: SENATOR ROBERTI, WE'VE PUT  
18 UP ON THE OVERHEAD, AND I PASSED OUT TO YOU A  
19 DOCUMENT THAT TRIES TO BASICALLY TRACK THESE  
20 DIFFERENT NUMBERS. SO WHAT WE MIGHT WANT TO DO,  
21 ONCE MR. WHITEHILL FINISHES HIS PRESENTATION, IS  
22 I COULD WALK YOU THROUGH THESE RATHER THAN  
23 GETTING CAUGHT UP IN THE NUMBERS AS HE FINISHES  
24 THIS.

25 MR. WHITEHILL: RIGHT. BUT YOU'RE

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1 CORRECT, YES, THE 1991 PERMIT WAS FOR A MAXIMUM  
2 OF 3,000 TONS PER DAY, DID NOT RESTRICT THE  
3 AVERAGE TONNAGE. THE PROPOSED PERMIT WOULD ALLOW  
4 THE SITE TO ACCEPT AN AVERAGE OF 3,000 TONS PER  
5 DAY.  
6 AND SO IN CONCLUSION, THE ONLY PUBLIC  
7 CEQA REVIEW FOR THE DISPOSAL TONNAGE AT THIS  
8 LANDFILL. .  
9 I FORGOT TO MENTION THAT TO SUPPORT  
10 THE PERMIT THAT'S BEFORE YOU TODAY THE CITY  
11 PREPARED AN ADDENDUM AND TRAFFIC STUDY FOR THE  
12 PROPOSED TONNAGE IN THE PERMIT TODAY. AND AS YOU  
13 MIGHT KNOW, ADDENDUMS ARE -- USUALLY ARE ONLY  
14 ALLOWED FOR MINOR TECHNICAL CHANGES AND DO NOT  
15 REQUIRE PUBLIC NOTICE OR REVIEW, OR CIRCULATION.  
16 AND SO THE ONLY CEQA REVIEW FOR THE  
17 DISPOSAL TONNAGE AT THIS LANDFILL WAS FOR THE 582  
18 TON-PER-DAY AVERAGE LEVEL THAT WAS ANALYZED IN  
19 THE 1988 EIR. AND THERE HAS NEVER BEEN A CEQA  
20 ANALYSIS OR PUBLIC REVIEW FOR A SUSTAINED DAILY  
21 TONNAGE OF 3,000 TONS PER DAY. THEREFORE, THE  
22 PROPOSED AVERAGE TONNAGE OF 3,000 TONS PER DAY IS  
23 NOT SUPPORTED BY CEQA ANALYSIS, AND THE STAFF  
24 RECOMMEND OBJECTION TO THE PERMIT ON THIS BASIS.  
25 THE OTHER ISSUE HAD TO DO WITH THE



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1 CLOSURE PLAN FOR THE GUADALUPE LANDFILL. SECTION  
2 44009 OF THE PRC STATES, IN PART, THAT THE BOARD  
3 SHALL OBJECT IF THE PERMIT IS NOT CONSISTENT WITH  
4 SECTION 43600, OR IS NOT CONSISTENT WITH  
5 STANDARDS ADOPTED BY THE BOARD.  
6 SECTION 43600 STATES THAT AN OPERATOR  
7 SHALL SUBMIT TO THE BOARD EVIDENCE OF FINANCIAL  
8 ABILITY IN AN AMOUNT THAT IS EQUAL TO THE  
9 ESTIMATED COST OF CLOSURE AND 30 YEARS OF POST-  
10 CLOSURE MAINTENANCE.  
11 SECTION 21780 OF TITLE 27 SPECIFIES  
12 THE FORM OF SUBMITTAL OF CLOSURE AND POST-CLOSURE  
13 MAINTENANCE PLANS AND REQUIRE THOSE POST-CLOSURE  
14 MAINTENANCE PLANS TO BE A PART OF A PERMIT  
15 APPLICATION PACKAGE. ALSO THE PLANS ARE REQUIRED  
16 TO BE DEEMED COMPLETE.  
17 BOARD STAFF HAVE DETERMINED THAT THE  
18 FINANCIAL MECHANISM FOR CLOSURE IS ADEQUATELY  
19 FUNDED IN RELATION TO THE OPERATOR'S COST  
20 ESTIMATES. HOWEVER, BOARD STAFF HAVE DETERMINED  
21 THAT THE COST ESTIMATES ARE INADEQUATE AND THAT  
22 THE CLOSURE AND POST-CLOSURE MAINTENANCE PLANS DO  
23 NOT PROVIDE A BASIS TO ASSESS THEIR  
24 REASONABLENESS.  
25 AND AT THIS POINT SCOTT WALKER WILL

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1 GO INTO THE CLOSURE PLAN DEFICIENCIES IN A LITTLE  
2 BIT MORE DETAIL.

3 MEMBER JONES: MR. CHAIRMAN, CAN I JUST  
4 ASK ONE QUESTION?

5 CHAIRMAN EATON: SURE. MR. JONES.

6 MEMBER JONES: WHEN A CLOSURE PLAN IS  
7 SUBMITTED TO THE STATE AGENCIES HOW LONG DO THEY  
8 HAVE TO RESPOND?

9 MR. WHITEHILL: WHEN THE CLOSURE PLAN IS  
10 SUBMITTED TO A STATE AGENCY FOR COMPLETENESS  
11 REVIEW IT'S REQUIRED TO BE DEEMED COMPLETE OR  
12 INCOMPLETE WITHIN 30 DAYS.

13 MEMBER JONES: SO IF THIS WAS SUBMITTED  
14 IN 1995 AND THERE WAS NO RESPONSE UNTIL YESTERDAY  
15 IS THAT FAIR?

16 MR. WHITEHILL: WELL, WE DON'T HAVE A  
17 RECORD THAT IT WAS SUBMITTED TO THE BOARD UNTIL  
18 1990.

19 MEMBER JONES: THE LETTER FROM THE WATER  
20 BOARD SAYS THAT IT WAS SUBMITTED IN 1995.

21 MR. WHITEHILL: CORRECT. AND THEY --

22 MEMBER JONES: AND THAT THEY'VE JUST DONE  
23 A CURSORY REVIEW TODAY AND FOUND OUT THAT MAYBE  
24 IT DOESN'T MEET THE NATIONAL AVERAGE.

25 MR. WHITEHILL: CORRECT.

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1           MEMBER JONES: SO IN FOUR YEARS' TIME  
2 THEY DIDN'T DO THAT REVIEW, BUT IT'S AN ISSUE NOW  
3 ON THIS PERMIT. I JUST WANT TO MAKE SURE I'VE  
4 GOT ALL THE RULES RIGHT.  
5 MR. WHITEHILL: ARE YOU ADDRESSING THE  
6 WATER BOARD'S REVIEW, OR ARE YOU ADDRESSING THE  
7 WASTE BOARD'S REVIEW?  
8           MEMBER JONES: THIS IS THE WATER BOARD  
9 REVIEW THAT WE GOT.  
10 MR. CHANDLER: WOULD YOU LIKE ME TO GET A  
11 REPRESENTATIVE FROM THE WATER BOARD --  
12           MEMBER JONES: WELL, I JUST DON'T  
13 UNDERSTAND THE TIMING, RALPH.  
14 MR. CHANDLER: WELL, I'M NOT SO SURE WE  
15 CAN ANSWER --  
16           MEMBER JONES: I MEAN, FOUR YEARS.  
17 MR. CHANDLER: -- FOR THE WATER BOARD.  
18 MR. WHITEHILL: YEAH, I CAN'T ANSWER FOR  
19 THE WATER BOARD. I'M NOT SURE -- AT THE TIME  
20 THAT IT WAS SUBMITTED TO THE WATER BOARD, AND  
21 SCOTT WILL GO INTO THIS IN MORE DETAIL IN JUST A  
22 MOMENT, THE WATER BOARD PROBABLY WASN'T THE  
23 PRIMARY AGENCY RESPONSIBLE FOR DEEMING IT  
24 COMPLETE AT THAT TIME. AND SCOTT WILL TALK ABOUT  
25 THE CHANGES IN THE RULES THAT HAVE OCCURRED SINCE

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1 TITLE 27 WENT INTO EFFECT.  
2 MR. WALKER: YEAH, I WANTED TO KIND OF  
3 TIE IN A LITTLE BIT, TO GIVE A LITTLE CONTEXT OF  
4 THE CLOSURE PLAN AND COST ESTIMATE ISSUE HERE.  
5 AND AS JOHN MENTIONED, THE COMPLETE  
6 AND CORRECT APPLICATION FOR A PERMIT REQUIRES A  
7 COMPLETE CLOSURE PLAN DETERMINATION. AND THE  
8 PURPOSE OF A PRELIMINARY CLOSURE/POST-CLOSURE  
9 MAINTENANCE PLAN IS PRETTY CLEAR, IT PROVIDES A  
10 BASIS FOR A PRELIMINARY ESTIMATE OF THE COST FOR  
11 CLOSURE AND POST-CLOSURE MAINTENANCE TO ENABLE  
12 THE WASTE BOARD TO -- THE BOARD TO ASSESS THE  
13 REASONABLENESS OF THE COST ESTIMATES.  
14 PRIOR TO THE EFFECTIVE DATE OF TITLE  
15 27 REGULATIONS, WHICH WERE PROMULGATED AS A  
16 RESULT OF AB 1220, STAFF PERFORMED COMPLETENESS  
17 DETERMINATIONS IN CONJUNCTION WITH LEAS AND  
18 REGIONAL WATER BOARDS.  
19 AND IN THIS PARTICULAR CASE OUR  
20 RECORD -- THERE'S SOME CONFUSION ABOUT WHEN THE  
21 FIRST PRELIMINARY CLOSURE PLAN IS DUE. BECAUSE  
22 THERE'S INITIAL COST CERTIFICATION JUST BY THE  
23 OPERATOR -- OPERATOR'S CONSULTANT, WHICH IS DONE  
24 -- WHICH WAS REQUIRED IN THE LATE '90S. THE  
25 FIRST PRELIMINARY PLAN WAS WHERE THE OPERATOR HAD

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1 TO SUBMIT TO THE AGENCIES THE BASIS, THE  
2 TECHNICAL BASIS TO BACK UP THEIR COST ESTIMATES.  
3 NORMALLY THESE PLANS WERE DUE AT THE  
4 FIRST PERMIT REVIEW DATE, AFTER THE EFFECTIVE  
5 DATE OF THE REGULATIONS. IN THIS PARTICULAR  
6 CASE, OUR RECORDS HAD INDICATED THAT, I BELIEVE,  
7 IN -- THE FIRST FORMAL SUBMITTAL WAS IN -- WAS  
8 DUE, OF THE PRELIMINARY PLAN, IN LIKE MAY OF --  
9 APPROXIMATELY MAY OR JUNE OF '96, WHICH WOULD  
10 CORRESPOND TO THE PERMIT REVIEW.  
11 HOWEVER, IN '93, WITH SUBTITLE D,  
12 OPERATORS HAD TO HAVE A CLOSURE PLAN IN THE  
13 OPERATING RECORD, HAD TO BE IN THE OPERATING  
14 RECORD, NOT NECESSARILY SUBMITTED PURSUANT TO THE  
15 TITLE 14 REQUIREMENTS AT THE TIME.  
16 NOW THE LEA AND THE WATER BOARD ARE  
17 RESPONSIBLE FOR CLOSURE AND POST-CLOSURE PLAN  
18 COMPLETENESS DETERMINATION. AND STAFF ONLY  
19 REVIEW FOR TECHNICAL ASSISTANCE IF REQUESTED  
20 EARLY ON.  
21 THE WAY THE PROCESS WORKS IS, AFTER  
22 THE WATER BOARD AND THE LEA REVIEW -- DO THEIR  
23 TECHNICAL REVIEW, WHEN THEY'RE READY TO APPROVE  
24 IT THEY FORWARD IT TO US, WE HAVE 30 DAYS TO  
25 APPROVE OR DENY UNDER OUR DELEGATED AUTHORITY.

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1 SO THAT'S WHAT TITLE 27 IS AS SET UP.  
2 TYPICALLY THE BASIS FOR DETERMINING  
3 THAT A PRELIMINARY CLOSURE/POST-CLOSURE PLAN IS  
4 INCOMPLETE HAS GENERALLY BEEN INCLUDING, YOU  
5 KNOW, SIGNIFICANT INACCURACIES OR OMISSIONS IN  
6 COST ESTIMATES, SINCE THE PURPOSE OF THE  
7 PRELIMINARY PLAN IS TO ESTABLISH A REASONABLE  
8 COST ESTIMATE.  
9 IN THIS PARTICULAR CASE THE PLANS  
10 WERE ORIGINALLY DATED OCTOBER, '93, AND UPDATED  
11 DECEMBER, '95. I THINK THEY WERE UPDATED IN '94,  
12 TOO, BUT THE....  
13 WE WERE ASKED BY THE LEA TO REVIEW  
14 THESE PLANS. WE FIRST RECEIVED THESE PLANS ON  
15 JANUARY 22ND. WE LOOKED IN OUR RECORDS, WE  
16 THOUGHT, WELL, YOU KNOW, IS IT THERE, WAS THERE  
17 SOME EVIDENCE OF A FORMAL SUBMITTAL FOR REVIEW,  
18 WE DIDN'T FIND ANY IN THE RECORD. WE CONDUCTED A  
19 PRELIMINARY REVIEW AND COMPLETED IT ON FEBRUARY  
20 4TH, AND WE HAD SEVERAL CONCLUSIONS.  
21 WE DIDN'T FIND A RECORD THAT THESE  
22 PLANS WERE EVER SUBMITTED PURSUANT TO THAT  
23 REGULATION FOR REVIEW AND APPROVAL BY THE  
24 AGENCIES. WE RECOMMENDED, BASED ON WHAT WE SAW  
25 IN THE PLAN, THAT THE PLAN BE DEEMED INCOMPLETE

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1 ON THE BASIS OF INADEQUATE COST ESTIMATES AND  
2 SOME OMISSIONS IN THE COST ESTIMATES. AGAIN, WE  
3 DON'T DO THE DETERMINATION OF COMPLETENESS, WE  
4 JUST -- WE CAN RECOMMEND AND ASSIST, AND PROVIDE  
5 TECHNICAL ASSISTANCE.  
6 WHAT WE CONCENTRATE ON WAS REVIEWING  
7 OF THE COST ESTIMATES. AND HERE IN THE  
8 PRELIMINARY COST ESTIMATE WAS APPROXIMATELY --  
9 THE 30-YEAR WAS 725,400, OR A LITTLE OVER \$6,000  
10 PER FOOTPRINT ACRE, WHICH IS A KIND OF A GAUGE OF  
11 COMPARISON FOR REASONABLENESS. THE STATEWIDE  
12 AVERAGE WOULD BE -- IS APPROXIMATELY \$75,000 PER  
13 FOOTPRINT ACRE WITH, YOU KNOW, VARIANCE OF TWO-  
14 THIRDS OF THE RANGE IS PLUS OR MINUS 46,000 FROM  
15 THAT. SO THAT GIVES AN IDEA OF KIND OF A  
16 BALLPARK REASONABLE ESTIMATE, YOU KNOW, UNLESS  
17 THERE WERE SOME SPECIFIC THINGS IN A SITE THAT  
18 WOULD WARRANT A HIGHER OR LOWER.  
19 AND SO THIS WOULD SUGGEST THAT THE  
20 REASONABLE ESTIMATES WOULD BE ON THE ORDER OF  
21 BETWEEN -- AT LEAST BETWEEN 3.29 MILLION TO 8.6  
22 MILLION.  
23 AND THEN ALSO IN THE CLOSURE COST  
24 ESTIMATE FOR THIS TYPE -- FOR THE COST ESTIMATES  
25 THAT WE SAW ON FILE, IT WAS ABOUT \$28,685 PER

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1 FOOTPRINT-ACRE. AND THE STATEWIDE AVERAGE FOR  
2 THIS TYPE OF A PRESCRIPTIVE SYSTEM WITH A CLAY  
3 COMPOSITE CAP FOR SUBTITLE D PURPOSES, IS  
4 APPROXIMATELY 85,000 PER FOOTPRINT-ACRE, WITH THE  
5 STANDARD DEVIATION OF ABOUT 34,000.  
6 50, BASED ON THAT, THE -- YOU KNOW, A  
7 GAUGE OF REASONABLENESS WOULD BE STARTING WITH A  
8 RANGE OF ABOUT 5.8 MILLION TO APPROXIMATELY 9.8  
9 MILLION.  
10 WE CONTACTED THE WATER BOARD AND WE  
11 ASKED THEM TO PROVIDE US A STATUS OF WHAT THEY  
12 LOOKED AT, WHAT THEY REVIEWED. AND ON FEBRUARY  
13 22ND THEY PROVIDED A WRITTEN DETERMINATION THAT  
14 THE PRELIMINARY CLOSURE PLANS WERE -- ARE  
15 INCOMPLETE AND INADEQUATE. THEY ALSO CONCURRED  
16 WITH THE STAFF'S DETERMINATION THAT THE COST  
17 ESTIMATES ARE INADEQUATE.  
18 SO FROM THEIR STANDPOINT, ALTHOUGH  
19 THE DATE OF THE CLOSURE PLAN WAS OCTOBER, '93,  
20 OUR UNDERSTANDING WOULD BE THAT THEY WOULDN'T  
21 VIEW THAT AS THE FILING DATE FOR THE REVIEW.  
22 THEY HAD A COPY ON RECORD, AND SO THEY REVIEWED  
23 THAT AND THEY DETERMINED THAT THEY WERE WITHIN  
24 THEIR AUTHORITY TO DETERMINE IT'S INCOMPLETE.  
25 THE OPERATOR PROVIDED ANOTHER



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1 RESPONSE ON FEBRUARY 19TH TO OUR LETTER, AND I --  
2 PRELIMINARY REVIEW INDICATES THAT THEY DIDN'T --  
3 THEY DON'T CONCUR WITH THE FINDINGS AND WERE NOT  
4 PREPARING TO REVISE THE ESTIMATES.  
5 THE OPERATOR -- WE'VE HAD SOME VERY  
6 RECENT DISCUSSIONS WITH THE OPERATOR AND THEY  
7 HAVE SOME THINGS THEY'LL ADD IN THEIR  
8 PRESENTATION, AND THEN THEY MAY HAVE SOME NEW  
9 PROPOSAL THERE.  
10 AND ONE OF THE MAIN FACTORS WE JUST  
11 WANT TO QUICKLY SHOW IS THAT THERE IS SOME  
12 SPECULATION THAT MAYBE THERE WAS A ECONOMIES OF  
13 SCALE THAT WOULD WARRANT A RELATIVELY LOW-COST  
14 ESTIMATE FOR POST-CLOSURE.  
15 THIS INDICATES A GRAPH OF COST PER  
16 FOOTPRINT-ACRE FOR 30-YEAR POST-CLOSURE  
17 MAINTENANCE VERSUS THE TOTAL FOOTPRINT OF WASTE  
18 FOOTPRINT. IT GIVES YOU AN IDEA OF, YOU KNOW,  
19 THE RANGE IN THE STATE FOR THAT AREA. AND  
20 GUADALUPE LANDFILL FOR THE POST-CLOSURE IS WELL  
21 BELOW THE EXPECTED RANGE. THE STANDARD DEVIATION  
22 KIND OF TAKES YOU DOWN INTO THAT CLUSTER IN  
23 THERE.  
24 AND YOU DON'T REALLY SEE A TREND,  
25 IT'S -- YOU GET COMPETING FACTORS ON A LARGE

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1 LANDFILL VERSUS A SMALL LANDFILL. SMALL  
2 LANDFILLS, SOMETIMES YOU GET A REAL SIMPLE  
3 CLOSURE DESIGN CAP, YOU MAY NOT HAVE THE NEED FOR  
4 GAS MONITORING WELLS, SO THOSE COULD BE  
5 RELATIVELY CHEAP. WE DO HAVE SOME THAT FALL  
6 OUTSIDE THIS RANGE, VERY LOW CASE-SPECIFIC. AND  
7 THEN SOMETIMES WITH A LARGER LANDFILL -- ALTHOUGH  
8 YOU GET SOME ECONOMIES OF SCALE, A LOT OF TIMES  
9 YOU HAVE MUCH MORE COMPLEXITY, MUCH MORE COMPLEX  
10 LEACHATE CONTROL SYSTEMS. THERE MAY BE OTHER  
11 FACTORS. SO IT'S KIND OF A -- YOU KNOW, PULLS IT  
12 DIFFERENT DIRECTIONS.  
13 IN THIS PARTICULAR CASE, YOU KNOW,  
14 WE'RE IN THE BAY AREA, AND THAT'S NOT AN AREA  
15 THAT WE TRADITIONALLY EXPECT TO HAVE A REAL LOW -  
16 - A RELATIVELY LOW COST ESTIMATE, BASED ON THE  
17 NATURE OF THE AREA. THERE'S FAIRLY STEEP SLOPES,  
18 EROSION CONDITIONS ARE TRICKY, YOU'VE GOT A GAS  
19 CONTROL SYSTEM. AND THAT'S WHY WE RAISED THIS  
20 ISSUE, AND THE WATER BOARD AT LEAST HAD CONCURRED  
21 ON THAT.  
22 MR. WHITEHILL: OKAY. SO I'LL CONCLUDE  
23 SCOTT'S PART OF THE PRESENTATION BY STATING THAT  
24 BECAUSE THE PERMIT IS NOT CONSISTENT WITH  
25 STANDARDS ADOPTED BY THE BOARD, IN THAT THE COST

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1 ESTIMATES FOR CLOSURE ARE BASED ON A CLOSURE PLAN  
2 THAT HAS BEEN DEEMED INCOMPLETE AND MAY,  
3 THEREFORE, UNDERESTIMATE THE ACTUAL COST OF  
4 CLOSURE AND POST-CLOSURE MAINTENANCE, AND ALSO  
5 BECAUSE THE PERMIT IS NOT CONSISTENT WITH 43600  
6 OF THE PRC, IN THAT THE OPERATOR HAS NOT  
7 SUBMITTED EVIDENCE OF FINANCIAL ABILITY TO  
8 PROVIDE FOR CLOSURE AND POST-CLOSURE MAINTENANCE  
9 IN AN AMOUNT THAT IS EQUAL TO A REASONABLY-  
10 ESTIMATED COST ESTIMATE FOR CLOSURE, THAT BOARD  
11 STAFF MUST ALSO RECOMMEND OBJECTION TO THE PERMIT  
12 ON THIS BASIS, AS WELL.  
13 SO, IN SUMMARY, THE INTEGRATED WASTE  
14 MANAGEMENT PLAN IS NOT A BASIS FOR RECOMMENDING  
15 CONCURRENCE IN THE PERMIT TODAY. HOWEVER, BOARD  
16 STAFF ARE RECOMMENDING OBJECTION TO THE PERMIT  
17 BECAUSE THE EXISTING CEQA ANALYSIS -- WHICH IS  
18 THE 582 TONS PER DAY IN THE ORIGINAL EIR -- DOES  
19 NOT SUPPORT THE PROPOSED SUSTAINED DAILY TONNAGE  
20 OF 3,000 TONS PER DAY. AND, ALSO BECAUSE THE  
21 POST-CLOSURE MAINTENANCE COST ESTIMATES ARE NOT  
22 CONSISTENT WITH STANDARDS ADOPTED BY THE BOARD,  
23 OR THE REQUIREMENT FOR DEMONSTRATING FINANCIAL  
24 ABILITY.  
25 THE LEA, REPRESENTATIVES OF THE

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1 OPERATOR, AND CITY PLANNING DEPARTMENT, THE LEAD  
2 AGENCY FOR CEQA ARE HERE IF YOU HAVE ANY  
3 QUESTIONS. AND THAT CONCLUDES MY PRESENTATION.  
4 CHAIRMAN EATON: MS. TOBIAS, DO YOU WANT  
5 TO FOLLOW UP WITH THE SENATOR'S ISSUE WITH REGARD  
6 TO THE NUMBERS?  
7 MS. TOBIAS: SURE. OKAY. WHAT WE'VE  
8 DONE IS ATTEMPTED IN THIS CHART -- AND WHAT ARNIE  
9 IS PASSING OUT RIGHT NOW, IS ACTUALLY A MORE  
10 COMPLETE EXPLANATION OF WHAT'S IN THE CHART. SO  
11 YOU REALLY DON'T NEED TO REFER TO THE WRITTEN  
12 MATERIAL THAT WE JUST PASSED OUT, BUT WE DO NEED  
13 THAT IN THE RECORD. BUT THE CHART REALLY  
14 ADEQUATELY SUMMARIZES WHAT IS IN FRONT OF YOU,  
15 AND WHAT MR. DIER HAS JUST PUT UP ON THE  
16 OVERHEAD.  
17 THE POINT OF THIS IS TO BASICALLY TRY  
18 TO MAKE SOME SENSE OF THE NUMBERS, AND TO SHOW  
19 YOU THAT THERE'S REALLY A FAIR AMOUNT OF  
20 AMBIGUITY IN THE NUMBERS BETWEEN OR AMONG THE  
21 ENVIRONMENTAL DOCUMENTS, EVEN THE STAFF REPORT IN  
22 1991, AND THE PERMITS. LET ME WALK YOU THROUGH  
23 SOME OF THESE.  
24 WHAT YOU HAVE IN 1988 IS AN EIR THAT  
25 TALKS ABOUT 582 TONS PER DAY WITH A MULTIPLIER IN

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1 THERE OF FOUR PERCENT -- I'M NOT GOING TO REFER  
2 TO THAT BECAUSE THAT PARTICULAR NUMBER OF FOUR  
3 PERCENT, ESCALATING TO 3650 IS ACTUALLY THE ONE  
4 THING THAT'S FAIRLY CONSISTENT THROUGH ALL THESE  
5 DOCUMENTS, SO I WON'T KEEP SAYING THAT.  
6 BUT BASICALLY IT REFERS TO 582 TONS  
7 PER DAY OF WITH -- CALLING IT AN AVERAGE DAILY  
8 TON OF WASTE. AND I THINK THE APPLICANT MAY WISH  
9 TO EXPLAIN WHERE SOME OF THESE NUMBERS COME FROM.  
10 THAT PROJECT -- AS YOU KNOW, AN EIR  
11 IS DONE ON A PARTICULAR PROJECT -- WAS TO EXPAND  
12 THE SIZE OF THE FACILITY BY 50 ACRES TO INCREASE  
13 THE REMAINING CAPACITY TO 18 MILLION CUBIC YARDS.  
14 SO WHAT YOU HAVE IS ESSENTIALLY AN ENVIRONMENTAL  
15 DOCUMENT THAT'S DONE ON AERIAL EXPANSION. IT'S  
16 INCREASING THE SIZE OF THE LANDFILL, AND SO IT  
17 DOESN'T REALLY ADDRESS IN A VERY COMPLETE WAY THE  
18 ISSUE OF HOW MUCH WASTE COMES IN, IT'S REALLY  
19 TALKING ABOUT THE CAPACITY OF THE LANDFILL. AND  
20 I THINK IN 1988 THAT'S PROBABLY CONSISTENT WITH  
21 WHAT WE WERE TRYING TO DO IN TERMS OF DEALING  
22 WITH THESE KINDS OF NUMBERS.  
23 IT ALSO SAYS IN THAT DOCUMENT THAT  
24 THE TRAFFIC AND THE NOISE STUDY ASSUMED NO GROWTH  
25 IN DAILY TRAFFIC TO AND FROM THE SITE. SO THAT

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1 ESSENTIALLY COVERS BOTH TRAFFIC AND NOISE, AND  
2 PREDICATES THE CONCLUSIONS IN THE EIR, AS I  
3 UNDERSTAND IT, ON THAT IDEA THAT THERE WILL BE NO  
4 GROWTH IN DAILY TRAFFIC. SO THAT'S 1988.  
5 IF YOU THEN MOVE DOWN TO THE NEXT  
6 COLUMN ACROSS, IF YOU LOOK UNDER ENVIRONMENTAL  
7 DOCUMENTS IT SAYS THE 1991 ADDENDUM, IT TALKS  
8 ABOUT A MAXIMUM DAILY DISPOSAL RATE OF 3,000 TONS  
9 PER DAY, SO THAT'S A DIFFERENT TERM THAN THE ONE  
10 THAT'S USED BEFORE OF AVERAGE DAILY TONS.  
11 AND THEN INTERESTINGLY ENOUGH, IF YOU  
12 MOVE ACROSS, IN THE STAFF REPORT FOR THAT PERMIT  
13 IT TALKED ABOUT DAILY AVERAGE TONNAGE, ANOTHER  
14 TERM, STILL THE 3,000, BUT BASICALLY LEAVES THIS  
15 AMBIGUITY OF WHAT IS THAT 3,000 TONS PER DAY.  
16 AND THEN TO COMPLICATE IT FURTHER,  
17 WHEN YOU GET INTO THE 1991 PERMIT, IT TALKS ABOUT  
18 A DAILY MAXIMUM OF 3,000 TONS PER DAY.  
19 SO, IT'S REALLY KIND OF HARD TO TELL  
20 WHAT THOSE -- THAT IS. IS THAT A PEAK, IS THAT  
21 AN AVERAGE, IS IT WHATEVER. AND I'M ONLY TALKING  
22 ABOUT THE LEGAL AMBIGUITY HERE, I'M NOT TRYING TO  
23 ARGUE A PRO OR A CON IN TERMS OF THE NUMBERS, I'M  
24 JUST TRYING TO SIMPLY SAY THAT WHEN YOU LOOK AT  
25 THIS IT'S SOMEWHAT HARD TO FIGURE OUT WHAT

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1 NUMBERS -- OR, WHAT THESE NUMBERS MEAN.  
2 THE 1991 PERMIT ALSO REQUIRES  
3 CONFORMANCE WITH THE RDSI. THE RDSI STATES THAT  
4 THE AVERAGE DAILY DISPOSAL RATE IS 590 TONS PER  
5 DAY. AND THEN IT, IN TURN, CONDITIONS, OR IT  
6 REQUIRES OPERATION CONFORMANCE WITH THE 1988 EIR  
7 WHICH FLIPS YOU BACK TO THE 582 TONS PER DAY THAT  
8 WAS IN THAT DOCUMENT.  
9 AND THEN YOU GET UP TO TODAY, WHERE  
10 THE ADDENDUM, THE 1998 ADDENDUM THAT'S BEEN  
11 PROPOSED SAYS UP TO 3,650 TONS PER DAY. THE  
12 APPLICATION WAS -- THE 1998 APPLICATION  
13 ORIGINALLY WAS 3,650 PEAK DAILY LOADING, SO THAT  
14 REFERS TO THE PEAK AGAIN. AND THEN THE 1999  
15 PROPOSED PERMIT --  
16 MS. TOBIAS: THAT'S THE 1998 APPLICATION  
17 THAT WAS TURNED INTO THE LEA.  
18 AND THEN THE 1999 PROPOSED PERMIT  
19 THAT'S BEFORE YOU MOVES BACK TO THE 3650 NUMBER  
20 IN TERMS OF A MAXIMUM PEAK DAILY TONNAGE, AND  
21 3,000 TONS PER DAY DAILY ANNUAL AVERAGE.  
22 SO I THINK THE POINT OF THIS IS JUST  
23 TO GIVE YOU SOME REFERENCE AS TO WHERE SOME OF  
24 THESE NUMBERS COME FROM, AS BOTH THE STAFF AND  
25 THE APPLICANT TALK ABOUT THESE, AND TO SHOW YOU

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1 THAT THERE IS A FAIR AMOUNT OF AMBIGUITY, IN MY  
2 OPINION, AS TO, YOU KNOW, ACTUALLY WHAT WE'RE  
3 DEALING WITH HERE IN TERMS OF BOTH THE BASELINE -- 4 -- WHAT WAS THE  
NUMBER THAT WE SHOULD BE WORKING  
5 FROM IN TERMS OF AN AVERAGE DAILY TONNAGE, AND  
6 WHAT YOU'D BE LOOKING AT IN TERMS OF CEQA  
7 COVERAGE. HOW DO YOU ANALYZE THAT INCREASE FROM  
8 WHATEVER WAS THE ORIGINAL NUMBER TO WHAT IS  
9 PROPOSED TODAY. --

10 MEMBER ROBERTI: MR. WHITEHILL MADE  
11 REFERENCE TO SOME STATEMENT IN ONE OF THE  
12 PERMITS, EARLIER PERMITS, SAYING THE 3,000 FIGURE  
13 WAS TO GRANT A DEGREE OF FLEXIBILITY.  
14 MR. WHITEHILL: THAT IS CORRECT. THAT'S  
15 FROM THE 1991 PERMIT, WHICH STATES THAT THE DAILY  
16 MAXIMUM -- OR, THAT THE LANDFILL IS ALLOWED TO  
17 RECEIVE A DAILY MAXIMUM OF 3,000 TONS PER DAY.  
18 AND THEN IT ALSO GOES ON TO TALK ABOUT THE  
19 GRADUATED INCREASE --

20 MEMBER ROBERTI: AND WHAT IS THE EXACT  
21 LANGUAGE --  
22 MR. WHITEHILL: AND THEN THE EXACT  
23 LANGUAGE AT THE END OF THAT PARAGRAPH IS THAT  
24 (PRESUMED QUOTATION) : "THESE MAXIMUM DAILY LOADS  
25 ARE ALLOWED TO PROVIDE FOR THE MAXIMUM EXPECTED



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1 FLUCTUATIONS IN THE DAILY INCOMING WASTE LOAD."

2 MEMBER ROBERTI: SO I GUESS THAT SORT OF

3 -- AND MAYBE THE APPLICANT CAN ADDRESS THAT WHEN

4 THEY SPEAK -- BUT, THAT SOUNDS TO ME LIKE THAT

5 MAY SUBSTANTIATE STAFF'S POSITION THAT --

6 MS. TOBIAS: THAT IT'S A PEAK.

7 MEMBER ROBERTI: -- THAT IT'S A PEAK.

8 THE USE OF THE WORDS "MAXIMUM

9 TONNAGE" UNDERSTOOD IT YESTERDAY WHEN I WAS

10 READING IT, THE USE OF THE WORDS "MAXIMUM

11 TONNAGE"--

12 MS. TOBIAS: IF YOU'RE LOOKING -- IT'S ON

13 YOUR -- THE RIGHT-HAND COLUMN UNDER 1991 PERMIT,

14 DAILY MAXIMUM 3,000.

15 MEMBER ROBERTI: DAILY MAXIMUM -- YEAH,

16 DAILY MAXIMUM TONNAGE. BY ITSELF MIGHT SOUND

17 LIKE -- HARD TO SAY -- MIGHT SOUND LIKE WHAT'S

18 ALLOWABLE. BUT IF YOU'RE TALKING ABOUT

19 FLUCTUATION, AND YOU CAN'T FLUCTUATE ABOVE THAT,

20 IT SOUNDS LIKE YOU ONLY CAN FLUCTUATE BELOW IT,

21 THEN I THINK THAT ADDS SOME STRENGTH TO THE

22 STAFF'S POSITION. IT'S A CLOSE CALL BECAUSE IT'S

23 SO CONFUSING. BUT MAYBE THE APPLICANT COULD

24 SPEAK TO THAT.

25 FROM MY OWN UNDERSTANDING OF IT, I

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1 KIND OF THINK MAYBE THAT WAS THE MAXIMUM, AND  
2 THEY WERE SPEAKING OF FLUCTUATION BELOW THAT.  
3 BUT I WANT TO HEAR WHAT THE APPLICANT HAS TO SAY.  
4 MEMBER JONES: MR. CHAIRMAN?  
5 CHAIRMAN EATON: MR. JONES.  
6 MEMBER JONES: I THINK THAT -- I DON'T  
7 WANT TO -- I'VE GOT MORE TO SAY AFTER THE  
8 APPLICANTS GO.  
9 BUT I REQUESTED THE '91 PERMIT  
10 BECAUSE THERE WAS SO MUCH AMBIGUITY. AND I THINK  
11 THAT IF YOU READ THE ENTIRE CHAPTER, INSTEAD OF  
12 THESE LITTLE ONE- OR TWO-LINERS THAT WE KEEP  
13 GETTING, WHEN IT TALKS ABOUT -- AND, BY THE WAY,  
14 THIS IS PROBABLY ONE OF THE BETTER PERMITS I'VE  
15 SEEN, IT COVERS JUST ABOUT EVERYTHING.  
16 THIS LANDFILL IS ALLOWED TO RECEIVE A  
17 DAILY MAXIMUM OF 3,000 TONS PER DAY FOR '91, WITH  
18 A GRADUATED INCREASE ALLOWED EACH YEAR UP TO 3650  
19 PER DAY FROM 1996, SEVEN DAYS PER WEEK, OR SUCH  
20 OTHER MAXIMUM AMOUNT SPECIFIED BY THE LEA.  
21 NOW, 3650 PER DAY, 360 — OR, I DON'T  
22 WANT TO MISS THE WORDS -- 3650 TONS PER DAY FOR  
23 '96, SEVEN DAYS A WEEK, TELLS ME THAT IS NOT A  
24 PEAK, THAT IS THE MAXIMUM ALLOWABLE TONNAGE INTO  
25 THE FACILITY. BECAUSE A PEAK DOESN'T -- DOESN'T

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1 EVER GO TO SEVEN-DAYS-A-WEEK NORMAL OPERATING, IT  
2 GOES TO THOSE TIMES WHEN YOU HAVE INFLUXES.  
3 AND IT GOES ON TO SAY (PRESUMED  
4 QUOTATION) : "OR SUCH OTHER MAXIMUM AMOUNT  
5 SPECIFIED BY THE LEA. THIS ALLOWANCE FOR FOUR--  
6 PERCENT GROWTH CURVE WILL RESULT IN THE FOLLOWING  
7 DAILY MAXIMUM TONNAGES." FOR 1992, 3,120 TONS  
8 PER DAY. FOR 1993, 3,245 TONS PER DAY. FOR '94,  
9 3,375 TONS PER DAY. FOR 1995, 3,510 TONS PER  
10 DAY. FOR '96, 3,650 TONS PER DAY. AND THEN IT'S  
11 THE SENTENCE: "THESE MAXIMUM DAILY LOADS ARE  
12 ALLOWED TO PROVIDE FOR MAXIMUM EXPECTED  
13 FLUCTUATIONS." WHAT THEY'RE SAYING ALL THE WAY  
14 THROUGH THAT WHOLE PARAGRAPH IS WHAT YOU CAN HAVE  
15 PER DAY, SEVEN DAYS A WEEK.  
16 AND WHERE I'VE GOT AN ISSUE WITH THIS  
17 -- BECAUSE I WILL TELL YOU RIGHT NOW, WHEN I WAS  
18 FIRST BRIEFED ON THIS I LET THE APPLICANT KNOW  
19 YOU'RE IN DEEP -- YOU'VE GOT A PROBLEM, THIS IS  
20 NOT GOING TO GO THROUGH THE WAY IT IS.  
21 AND THE MORE I'VE GONE THROUGH THIS  
22 THING, THIS IS NO -- WHAT THEY'VE GOT TODAY IS  
23 LESS -- IS MORE RESTRICTIVE THAN WHAT THEY'VE  
24 BEEN OPERATING UNDER SINCE THIS BOARD GRANTED A  
25 PERMIT IN 1991. IT IS MORE RESTRICTIVE.

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1 BUT YET WE'RE HERE DEALING WITH A  
2 PERMIT AND CEQA ISSUES THAT HAPPENED UNDER  
3 ANOTHER BOARD IN 1991, THAT WENT THROUGH THE  
4 LOCAL PROCESS, WENT THROUGH ALL THE PROCESSES,  
5 AND WE'RE GOING TO GO BACK EIGHT YEARS AND  
6 DETERMINE WHETHER OR NOT THEY DID THEIR JOB.  
7 AND I'LL TELL YOU THE TRUTH, I'M GLAD  
8 THAT THE INTEGRATED WASTE MANAGEMENT PLAN ISN'T A  
9 PART OF A REASON NOT TO CONCUR. BECAUSE WHILE  
10 THE STAFF REPORT SAYS 917 TONS, IF YOU LOOK AT  
11 THE LINE ABOVE IN THE SITING ELEMENT IT  
12 IDENTIFIES 3,510 TONS, WHICH WAS THE DAY THE  
13 THING WAS WRITTEN IN 1995, BECAUSE THAT'S THE  
14 TONNAGE THAT'S IN THIS PERMIT.  
15 SO, YOU KNOW, WE'RE SELECTIVE IN THE  
16 LINES THAT WE PICK I THINK. I JUST NEED TO BE  
17 PROVED THAT I'M WRONG. BUT IT CLEARLY IS  
18 BOTHERSOME.  
19 CHAIRMAN EATON: ARE THERE ANY OTHER  
20 QUESTIONS BEFORE WE GET TO SOME OF THE  
21 APPLICANTS?  
22 MEMBER ROBERTI: I GUESS MAYBE OF STAFF  
23 AND COUNSEL, I NOTICED IN THE PRINTOUT MS. TOBIAS  
24 HAS GIVEN US THAT THE 1991 PERMIT WAS AN  
25 ADDENDUM. I GUESS THAT HAS SOME RELEVANCE. THE

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1 QUESTION IS WHETHER THERE'S BEEN ANY PROPER --  
2 NOT PROPER, IF THERE'S BEEN ANY NOTICE. BECAUSE  
3 I UNDERSTAND ADDENDA DON'T HAVE -- ARE NOT  
4 NOTICED, AT LEAST NOT TO THE EXTENT THE ORIGINAL  
5 PERMIT.  
6 AND SO EVEN IF WE ACCEPT THE ARGUMENT  
7 THAT MR. JONES IS VERY STRAIGHTFORWARD AND  
8 ARTICULATELY PRESENTING, STILL IT WAS AN  
9 ADDENDUM. AND BEING NEW ON THE BOARD, I'M NOT  
10 TOTALLY ACQUAINTED WITH ALL THE VARIOUS NOTICE  
11 REQUIREMENTS, BUT THE LITTLE I'VE GLEANED SO FAR  
12 IS THAT ADDENDA DO NOT --  
13 MS. TOBIAS: THEY'RE NOT CIRCULATED.  
14 MEMBER ROBERTI: ARE NOT CIRCULATED.  
15 MS. TOBIAS: I THINK THAT THIS IS  
16 PROBABLY A GOOD TIME TO ADDRESS THIS, SINCE I  
17 THINK BOTH MR. JONES AND SENATOR ROBERTI ARE  
18 BRINGING THIS UP.  
19 THE USE OF AN ADDENDUM UNDER CEQA IS  
20 REALLY -- IF YOU LOOK AT THE GUIDELINES, THE  
21 LANGUAGE WOULD LEAD YOU TO BELIEVE THAT THE TIME  
22 THAT YOU USE AN ADDENDUM IS WHERE YOU'VE GOT  
23 ERRATA, CLERICAL ERRORS, YOU NEED TO CLARIFY  
24 SOMETHING -- WHICH IS HOW WE'VE USED AN ADDENDUM,  
25 TO BASICALLY CLARIFY A PROJECT DESCRIPTION. BUT

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1 NO CHANGES. YOU REALLY ARE NOT SUPPOSED TO BE  
2 CHANGING A PROJECT WHEN YOU USE AN ADDENDUM.  
3 THERE IS ONE CASE THAT DOES -- THAT  
4 ACTUALLY ALLOWED -- I WON'T SAY IT ALLOWED A  
5 CHANGE IN A PROJECT, BUT IT MIGHT LEAD ONE TO  
6 BELIEVE THAT YOU COULD USE AN ADDENDUM TO  
7 ACTUALLY KIND OF CONTINUE YOUR -- AND REFINE AND  
8 ADD TO YOUR PROJECT DESCRIPTION WITHOUT HAVING TO  
9 FALL INTO A SUPPLEMENTAL EIR, WHICH IS TRIGGERED  
10 WHEN YOU HAVE EITHER A CHANGE IN THE PROJECT,  
11 CHANGE IN THE SURROUNDING CIRCUMSTANCES, OR NEW  
12 INFORMATION WHICH COULD NOT HAVE BEEN KNOWN AT  
13 THE TIME THAT THE PROJECT WAS APPROVED.  
14 SO IT'S MY UNDERSTANDING THAT WHEN  
15 THEY USED THE ADDENDUM IN 1991, THAT BASICALLY  
16 THIS WAS DONE. AND I THINK THE APPLICANT MIGHT  
17 BETTER ADDRESS -- SINCE I DON'T HAVE WHAT THE  
18 INTENT WAS, BUT I'LL JUST -- SUFFICE IT TO SAY  
19 THAT THEY USED AN ADDENDUM AT THIS TIME. AN  
20 ADDENDUM IS NOT CIRCULATED BECAUSE, IN ESSENCE,  
21 THE GUIDELINES DON'T ANTICIPATE THAT YOU'RE DOING  
22 ANYTHING THAT THE PUBLIC REALLY NEEDS TO KNOW  
23 ABOUT, YOU'RE SIMPLY FIXING SOMETHING THAT WAS A  
24 SMALL ERROR.  
25 I DON'T BELIEVE THAT STAFF INTENDS

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1 THAT THE BOARD WOULD BE READDRESSING THAT ISSUE  
2 IN 1991 OF THE USE OF AN ADDENDUM. OBVIOUSLY THE  
3 STATUTE OF LIMITATIONS ON THAT HAS EXPIRED AT  
4 THIS TIME, AND SO I DON'T THINK THAT'S OUR ISSUE.  
5 IT PROBABLY, I THINK, ADDS TO THE  
6 CONCERN THAT STAFF HAS WITH THIS SITUATION, WITH  
7 THE USE OF ANOTHER ADDENDUM, BECAUSE IT DOES MEAN  
8 THAT THERE'S REALLY NOT MUCH OPPORTUNITY FOR THE  
9 PUBLIC TO REALLY BE AWARE OF ANY CHANGES AT THE  
10 LANDFILL SINCE THE 1988 EIR WAS COMPLETED. BUT I  
11 DO WANT TO TRY TO DRAW THAT LINE BETWEEN WE'RE  
12 NOT, YOU KNOW, TRYING TO REINTRODUCE AN ISSUE OF  
13 THE 1991 ADDENDUM. BUT I THINK, AS MR. WHITEHILL  
14 DID MAKE CLEAR, THERE'S BEEN REALLY NO CEQA  
15 DISCUSSION OF THE AMOUNT OF WASTE THAT'S ALLOWED  
16 IN THIS LANDFILL FOR THE PUBLIC SINCE 1988.  
17 DOES THAT MAKE SENSE? MR. FRAZEE?

18           MEMBER FRAZEE: LET ME CONTINUE TO PURSUE  
19 THAT JUST A LITTLE BIT. FIRST OF ALL, THE  
20 ADDENDUM GOES ONLY TO THE ENVIRONMENTAL  
21 DOCUMENTS, NOT TO THE PERMIT.

22           MS. TOBIAS: CORRECT.

23           MEMBER FRAZEE: THE PERMIT IS A NEW  
24 ACTION. SO THE ADDENDUM ONLY GOES TO THE  
25 ENVIRONMENTAL DOCUMENTS. SO --

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1 MS. TOBIAS: THE WAY I -- DO YOU WANT TO  
2 GO AHEAD?

3 MEMBER FRAZEE: YEAH. SO I WOULD, FOR  
4 SAKE OF ARGUMENT, CONCEDE THAT PERHAPS AN  
5 ADDENDUM WAS NOT APPROPRIATE, CONSIDERING THE  
6 LEAP IN TONNAGE AT THAT POINT.

7 HOWEVER, THE BOARD AT THAT TIME  
8 APPARENTLY --

9 MS. TOBIAS: ISSUED A PERMIT.

10 MEMBER FRAZEE: -- FOUND THAT IT WAS  
11 ADEQUATE. AND --

12 MS. TOBIAS: THAT'S CORRECT.

13 MEMBER FRAZEE: -- WE USED TO SAY IN THE  
14 LEGISLATURE, THEN IS THEN, AND NOW IS NOW. AND  
15 SO I WOULD QUESTION WHETHER WE CAN GO BACK AND  
16 RESCIND THAT ACTION. I THINK THAT'S WHAT YOU  
17 WERE SAYING, SO --

18 MS. TOBIAS: AND THAT IS THE LINE I'M  
19 TRYING TO DRAW. IS THAT WE ARE NOT GOING BACK TO  
20 1991 AND SAYING LET'S GO BACK, AND SINCE THEY  
21 DIDN'T DO IT RIGHT THAT TIME DO IT RIGHT THIS  
22 TIME.

23 MEMBER FRAZEE: GO BACK AND DO IT. SO  
24 THEN YOUR DIFFERENCE IS BETWEEN THE '91 ADDENDUM  
25 AND THE '98 ADDENDUM, WHICH I DON'T SEE A PROBLEM



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1 WITH.

2 THE '91 ADDENDUM INDICATED THE 3,000

3 TONS PER DAY, PLUS FOUR PERCENT PER YEAR, AND

4 THAT GETS YOU TO THE --

5 MS. TOBIAS: RIGHT.

6 MEMBER FRAZEE: -- 3650. IT'S A QUESTION

7 OF LANGUAGE OF WHAT -- YOU KNOW, WHAT THE MEANING

8 OF "IS" IS --

9 MEMBER JONES: CENTURIES OF THOUGHT HAS

10 GONE INTO THAT.

11 MEMBER FRAZEE: BUT THIS WHOLE QUESTION

12 OF TONS PER DAY, YOU KNOW, THE VARIOUS TWEAKS ON

13 THE USE OF THE TERM. BUT I -- YOU KNOW, MY VIEW,

14 THEY ALL MEAN THE SAME THING. THEY ALL MEAN THAT

15 THERE'S A MAXIMUM OF 3650 TONS PER DAY, PERIOD.

16 MS. TOBIAS: AND, YOU KNOW, WE WILL MISS

17 YOU, BECAUSE I THINK YOU'VE GOTTEN RIGHT TO THE

18 CRUX OF THE MATTER. THE ISSUE REALLY IS, WHAT

19 DOES THAT LANGUAGE MEAN.

20 BECAUSE AS I WAS KIND OF TRYING TO

21 SAY, THE ISSUE BEFORE THE BOARD TODAY IN TERMS OF

22 CEQA IS, IS THERE ADEQUATE CEQA COMPLIANCE FOR

23 THE PROJECT -- AND I USE THAT MEANING THE PROJECT

24 UNDER CEQA -- BEFORE US.

25 IF YOU -- IF THE BOARD BELIEVES,

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1 BASED ON THE SUBSTANTIAL EVIDENCE BEFORE THEM,  
2 THAT THAT LANGUAGE ACROSS THE BOARD -- SORRY,  
3 POOR CHOICE OF WORDS THERE, BUT ACROSS THE  
4 DOCUMENTS THAT WERE DONE IN 1991, THE ADDENDUM,  
5 THE STAFF REPORT, AND THE PERMIT -- IF THOSE ALL  
6 REFER TO, IN ESSENCE, AVERAGE TONNAGE WHICH WOULD  
7 GET YOU TO 3650 THIS YEAR, THEN THERE REALLY  
8 ISN'T A CHANGE UNDER CEQA.  
9 STAFF BELIEVES THAT WHAT WAS DONE  
10 THERE, UNARTFULLY AND PERHAPS EVEN INEPTLY, IS  
11 THAT THAT WAS ACTUALLY A PEAK NUMBER. AND IT'S  
12 INTERESTING THAT IF YOU LOOK AT -- DOWN THE  
13 RIGHT-HAND COLUMN, AND YOU LOOK AT WHAT THEY  
14 APPLIED FOR IN THEIR ORIGINAL 1998 APPLICATION  
15 THAT WAS SUBMITTED TO THE LEA, THEY ACTUALLY  
16 APPLIED FOR 3650 PEAK DAILY LOADING. SO WHICH,  
17 YOU KNOW, I THINK COULD LEAD ONE TO BELIEVE THAT  
18 THAT'S WHAT THEY THOUGHT THEY HAD THE RIGHTS TO,  
19 WHICH WAS A PEAK NUMBER.  
20 SO IF THAT'S THE CASE, IF IT SAYS — 21 STAFF IS ASSERTING — WHICH  
IS THAT THIS IS A  
22 PEAK NUMBER -- THEN THE INCREMENT THAT WE'RE  
23 ASSESSING UNDER CEQA IS INDEED THAT CHANGE FROM  
24 3650 ON A PEAK BASIS TO -- FROM 3650 ON AN  
25 AVERAGE BASIS. SO IT'S NOT A HUGE INCREMENT IN

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1 TERMS OF THAT, BUT THERE -- WHAT WE'RE LOOKING AT  
2 IS, IS THE ADDENDUM CORRECT.  
3 MEMBER FRAZEE: YEAH, IT'S STILL A CAP  
4 THOUGH.  
5 MS. TOBIAS: A CAP?  
6 MEMBER FRAZEE: YEAH, THAT YOU CANNOT  
7 EXCEED NO MATTER WHICH WAY YOU APPROACH IT.  
8 MS. TOBIAS: AND SO, YOU KNOW, I THINK  
9 THE QUESTION IS DID THE PREVIOUS ENVIRONMENTAL  
10 DOCUMENTS IN '91 ADDRESS THAT ISSUE OF NOISE AND  
11 TRAFFIC, THAT IT WOULD OCCUR ONCE IN A WHILE ON -  
12 - YOU KNOW, AS A PEAK, OR DOES IT OCCUR EVERY  
13 DAY.  
14 IF YOU LOOK BACK AT THE PROJECT IN  
15 THE -- THAT'S DEFINED IN THE 1988 EIR, WHEN  
16 YOU'RE LOOKING AT 582 TONS PER DAY, PLUS A FOUR-  
17 PERCENT ESCALATOR, IT INDICATES THAT ONE OF THE  
18 ASSUMPTIONS IN THAT EIR WAS THAT THE TRAFFIC AND  
19 THE NOISE STUDY ASSUMED NO GROWTH IN DAILY  
20 TRAFFIC OR NOISE.  
21 AND SO THAT'S REALLY WHAT WE'RE  
22 GETTING AT HERE IS -- AND I REALLY DO THINK THAT  
23 THIS IS TRULY AN ISSUE FOR THE BOARD TO SATISFY  
24 THEMSELVES ON. YOU KNOW, STAFF HAS LOOKED AT IT,  
25 BUT YOU'RE GOING TO LISTEN TO THE APPLICANT,

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1 YOU'VE GOT THE SUBSTANTIAL EVIDENCE IN FRONT OF  
2 YOU. AND I THINK YOU'RE THE ONES WHO NEED TO BE  
3 COMFORTABLE WITH WHAT THAT NUMBER MEANS, AND  
4 WHETHER THERE NEEDS TO BE ANY ADDITIONAL CEQA ON  
5 THAT INCREMENTAL CHANGE.

6 MEMBER FRAZEE: BUT NO GROWTH IN TRAFFIC  
7 OR NOISE ABOVE THE 3600 --

8 MS. TOBIAS: WELL, IN THE 1998 EIR IT'S  
9 582 TONS PER DAY IS WHAT --

10 MEMBER FRAZEE: BUT THAT ALLOWS --

11 MS. TOBIAS: -- THAT WAS PREDICATED ON.

12 MEMBER FRAZEE: BUT THAT WAS TAKEN CARE  
13 OF IN THE ADDENDUM WHICH THE PREDECESSOR BOARD  
14 CERTIFIED, OR --

15 MS. TOBIAS: YOU COULD ASSUME -- YOU CAN  
16 -- THAT'S A POSSIBILITY OF ONE WAY TO LOOK AT IT.  
17 THE OTHER WAY TO LOOK AT IT IS THAT  
18 THEY HAD A 582 TONS PER DAY IN TERMS OF THEIR  
19 AVERAGE, BUT THEY COULD PEAK UP TO THE 3650.  
20 AND THEN THE OTHER TOUGH QUESTION IS, IF  
21 YOU THINK THERE IS SOME CEQA REVIEW THAT NEEDS TO  
22 BE DONE AS TO THAT INCREMENT, THE TOUGH PART IS  
23 TO COME BACK AND SAY WHAT IS THE BASELINE. IS  
24 IT, AS I'M SAYING, PERHAPS A 582 WITH A PEAK OF  
25 3650, OR EVEN WHAT YOU'RE SAYING, WHICH IS -- OR,

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1 THAT YOU'RE SUGGESTING, THAT IT'S 3,000 IS THE  
2 BASELINE AND IT'S 3650 AS THE INCREASE.

3 MEMBER FRAZEE: YEAH, LET ME JUST FINISH  
4 -- THIS ONE I THINK WE CAN GET TO. THE ONE  
5 THAT'S MUCH MORE PROBLEMATIC FOR ME IS THE  
6 CLOSURE, THE INADEQUACY OF THE CLOSURE, AND WE'LL  
7 HAVE TO HEAR FROM THE APPLICANTS ON THAT.

8 CHAIRMAN EATON: MR. JONES AND THEN  
9 SENATOR ROBERTI.

10 MEMBER JONES: JUST ON WHAT YOU WERE  
11 THAT LINE YOU WERE JUST GOING DOWN -- I HATE  
12 DOING ALL THE WORK FOR THESE GUYS, THEY NEED TO  
13 COME UP AND TESTIFY.  
14 BUT IT DOES PIQUE MY INTEREST THAT IN  
15 THE '91 PERMIT WHERE IT SAID 1996, 3650 TONS PER  
16 DAY, ARE WE LOOKING AT WHAT'S THE ADEQUACY FROM -  
17 - WE'VE GOT AN ESTABLISHED PERMIT THAT'S BEEN  
18 GIVEN AT 3650, AND NOW WE HAVE A PERMIT THAT'S  
19 SAYING 3,000 TONS, WITH A PEAK OF 3650. 50 WE'RE  
20 GOING TO DETERMINE WHAT THE LEVEL OF  
21 ENVIRONMENTAL -- WHAT LEVEL OF CEQA NEEDS TO BE  
22 DONE MORE THAN -- I MEAN, IT'S GOING DOWN, IT'S A  
23 RESTRICTION.

24 AND THAT'S WHERE I'M GETTING HUNG UP,  
25 IS THAT IT'S GOING FROM A HIGHER NUMBER TO A

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1 LOWER NUMBER. IT WOULD SEEM TO ME IT'S A -- IT'S  
2 MITIGATING ITSELF. YOU KNOW?  
3 MS. TOBIAS: AND I DO THINK -- AND I  
4 THINK THIS IS SIMPLY MY SENSE OF WHAT CEQA  
5 REQUIRES, AND I THINK IT'S ARGUABLE. IS THAT  
6 WHAT YOU WOULD DO IN THAT SITUATION IS -- IS THE  
7 LEA HERE IS THE LEAD AGENCY IF THE LOCAL  
8 JURISDICTION, THE CITY OR COUNTY, HAS NO  
9 DISCRETIONARY PERMIT TO ISSUE.  
10 AND SO THE QUESTION -- THE NORMAL  
11 PRACTICE THAT WE WOULD EXPECT TO SEE AN LEA GO  
12 THROUGH IS TO BASICALLY LOOK AT THE PROJECT  
13 THAT'S PROPOSED AND DETERMINE WHETHER OR NOT YOU  
14 NEED TO DO ANY CEQA COMPLIANCE.  
15 CERTAINLY THERE IS AN EXEMPTION UNDER  
16 CEQA THAT BASICALLY SAYS IF YOUR PROJECT CAN HAVE  
17 NO ENVIRONMENTAL IMPACTS YOU DON'T HAVE TO DO  
18 SOMETHING ON CEQA, CEQA DOESN'T ANTICIPATE THAT  
19 YOU GO THROUGH, YOU KNOW, THE PROCEDURES JUST FOR  
20 THE HECK OF GOING THROUGH THE PROCEDURES.  
21 ON THE OTHER HAND, WHAT'S USUALLY A  
22 VERY SAFE APPROACH IS TO DO A NEGATIVE  
23 DECLARATION WHICH TELLS THE CITIZENS WHAT IT IS  
24 THAT YOU'RE ABOUT TO DO. AND, IN FACT, IN THIS  
25 CASE IF WE GO WITH THE IDEA THAT THE AVERAGE IS

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1 3650, AND THAT NOW THEY'RE BASICALLY SAYING 3650  
2 WOULD BE THEIR MAXIMUM PEAK AND THEY'RE DOWN TO  
3 3,000, THEN I THINK IT'S EASY ENOUGH IN A  
4 NEGATIVE DECLARATION TO SAY THAT THEY HAVE IN  
5 FACT MITIGATED ANY CONCERNS.  
6 AND THAT'S I THINK -- AS A CEQA  
7 PRACTITIONER THAT'S THE SAFE APPROACH OF WHAT I  
8 WOULD EXPECT ANY JURISDICTION TO GO THROUGH, AS  
9 OPPOSED TO USING AN EXEMPTION WHICH DOESN'T TELL  
10 THE PUBLIC OR THE DECISION-MAKERS ANYTHING ABOUT  
11 THE THINKING THAT STAFF GOES THROUGH WHEN THEY DO  
12 THE CEQA COMPLIANCE.

13           MEMBER JONES: OKAY. SO YOU'VE GOT A  
14 3650-TON PROJECT THAT'S ALREADY BEEN APPROVED.  
15 AND YOU'RE GOING TO GO FROM 3600 TO 3,000. AND  
16 I'M HAVING A HARD TIME UNDERSTANDING WHAT YOU'RE  
17 PROTECTING ANYBODY FROM. MAYBE THE FACT THAT  
18 THEY'VE LOST 650 TONS OF AVAILABLE CAPACITY?

19           MS. TOBIAS: WELL, IN MY OPINION, I THINK  
20 THAT THE NUMBERS ARE OF SUFFICIENT AMBIGUITY HERE  
21 THAT THE CEQA PROCESS IS A GOOD PLACE TO TELL  
22 BOTH THE PUBLIC, THE LEA AND THE BOARD EXACTLY  
23 HOW THEY JUSTIFY THE NUMBERS, WHERE THEY CAME  
24 FROM, AND WHAT THEY'RE DOING. AND I THINK THAT'S  
25 WHAT CEQA BASICALLY REQUIRES, IT'S A DISCLOSURE

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1 DOCUMENT. IT DOESN'T TELL YOU, YOU KNOW, WHETHER  
2 OR NOT THE PROJECT'S GOOD OR BAD, IT SIMPLY TELLS  
3 YOU WHERE WE GOT THESE NUMBERS, WHERE THEY GOT  
4 THEIR BASELINES, WHAT LEVELS THEY WERE ACTUALLY  
5 OPERATING AT.

6 IT'S MY UNDERSTANDING THAT THEY'RE  
7 OPERATING AT A FAR LOWER TONNAGE LAST YEAR AND  
8 THE YEAR BEFORE THAN THESE NUMBERS EVEN  
9 INDICATED. SO IN THAT FACT THERE PROBABLY IS NOT  
10 A HUGE ENVIRONMENTAL IMPACT.  
11 BUT THE NEGATIVE DECLARATION  
12 BASICALLY IS TO TELL YOU WHETHER OR NOT THERE IS  
13 A POTENTIAL ENVIRONMENTAL IMPACT, NOT TO  
14 BASICALLY USE AN ADDENDUM, WHICH IS NOT A PROPER  
15 VEHICLE, JUST IN MY OPINION.

16 CHAIRMAN EATON: MR. DIER, YOU'VE BEEN  
17 WAITING PATIENTLY.  
18 OH, FIRST SENATOR ROBERTI.

19 MEMBER ROBERTI: I HAVE A QUESTION FOR  
20 THE STAFF AND THEN OF THE APPLICANTS WHEN THEY  
21 TESTIFY, IS IT THE POSITION OF THE APPLICANT  
22 AND/OR THE STAFF THAT THE 1991 ADDENDUM GRANTED  
23 GREATER TONNAGE DISPOSAL THAN THE 1988 PERMIT  
24 HAD?

25 MR. CHANDLER: IN A WORD, NO.



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1           MEMBER ROBERTI: NO?  
2 MR. CHANDLER: NO.  
3           MEMBER ROBERTI: SO YOU'RE SAYING --  
4 MR. CHANDLER: KIND OF WHAT I WANTED TO  
5 ADDRESS.  
6           MEMBER ROBERTI: THAT'S WHAT YOU WANTED  
7 TO ADDRESS? OKAY, WHY DON'T YOU ADDRESS THAT  
8 AND --  
9 (THE PARTIES SIMULTANEOUSLY SPEAK.)  
10          CHAIRMAN EATON: -- I KNEW MY INSTINCTS  
11 AT FIRST.  
12 MR. DIER: THANK YOU, MR. CHAIRMAN. DON  
13 DIER WITH THE PERMITTING AND INSPECTION BRANCH.  
14 THESE ARE ALL GOOD COMMENTS, I WOULD LIKE TO JUST  
15 LET THE BOARD KNOW WHAT STAFF DID WHEN THEY  
16 REVIEWED THE 1991 PERMIT.  
17 WE LOOKED AT THE NUMBERS THAT MR.  
18 JONES CITED, BUT WE ALSO LOOKED AT THE PERMIT IN  
19 ITS ENTIRETY. AND ON PAGE EIGHT OF THE PERMIT  
20 ARE LISTED CONDITIONING DOCUMENTS.  
21          MEMBER JONES: WHICH ONE, THE '91 PERMIT  
22 OR THE --  
23 MR. DIER: THE '91 PERMIT. AND THE  
24 CONDITIONING DOCUMENTS FOR THAT PERMIT ARE THE  
25 '88 EIR, THE 1991 ADDENDUM, AND THE 1991 REPORT

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1 OF DISPOSAL SITE INFORMATION. SO WE HAD TO LOOK  
2 AT THOSE CONDITIONING DOCUMENTS TO GET A SENSE OF  
3 WHAT DOES THIS PERMIT ALLOW --

4 MEMBER ROBERTI: WHILE YOUR SPEAKING  
5 COULD YOU ADDRESS A POINT --

6 CHAIRMAN EATON: SENATOR ROBERTI.

7 MEMBER ROBERTI: -- THAT'S ON MY MIND,  
8 AND IT MAY BE JUST EXACTLY WHAT YOU'RE TRYING TO  
9 GET TO. AND THAT IS, IN MY MIND, IF 1991  
10 ADDENDUM REALLY DIDN'T EXPAND THE 1988 PERMIT,  
11 THE FACT THAT IT WAS DONE BY ADDENDUM MAY BE  
12 EVIDENTIARY OF THAT. BECAUSE IF IT DID EXPAND  
13 THINGS THEN EVERYBODY WOULD HAVE GOTTEN THEIR  
14 CEQA NOTICE AND WHAT NOT. BUT THAT -- WHATEVER  
15 THE TERM OF ART IS AROUND HERE. BUT THAT'S NOT  
16 WHAT HAPPENS.

17 SO I WANT APPLICANT TO ADDRESS THAT  
18 POINT, AS WELL, WHEN THEY COME UP. BUT THE FACT  
19 THAT WHAT -- WE CAN'T REVISIT THE ADDENDUM, BUT  
20 THE FACT SOMETHING WAS DONE BY ADDENDUM INDICATES  
21 WHAT THE INTENT WAS TO BEGIN WITH. AND THAT --  
22 MR. DIER: AND THAT'S THE KEY, I THINK  
23 UNDERSTANDING --

24 MEMBER ROBERTI: YEAH. OKAY.

25 MR. DIER: -- WHAT THE ADDENDUM DID.

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1 SO WE LOOK AT THE '91 PERMIT WITH  
2 THOSE CONDITIONING DOCUMENTS. AND JUST TO  
3 RESTATE, THE RDSI, IN 1991, DESCRIBED AN AVERAGE  
4 DISPOSAL RATE OF 590 TONS PER DAY WITH A FOUR  
5 PERCENT PER YEAR INCREASE. SO THAT WOULD BRING  
6 US UP TO 900 IN 1996, WHICH AS I UNDERSTAND IS IN  
7 THE NEIGHBORHOOD OF ABOUT WHERE THEY'RE OPERATING  
8 CURRENTLY. THE 1988 EIR, AS WE'VE SAID MANY  
9 TIMES, DESCRIBED A FACILITY OPERATING AT AN  
10 AVERAGE OF 582 TONS PER DAY.  
11 50 NOW THE QUESTION IS, WHAT DID THE  
12 1991 ADDENDUM DO? AND ON STAFF'S REPORT PAGE  
13 13.5, WE'VE EXTRACTED VERBATIM FROM THE ADDENDUM  
14 TO TRY AND CHARACTERIZE TO YOU WHAT WE THINK THE  
15 ADDENDUM DID, AND PARTICULARLY WHAT IT DIDN'T DO.  
16 AND I'LL READ IT:  
17 "THE MAXIMUM DAILY DISPOSAL RATE IS A  
18 CONDITION IMPOSED ON THE PROJECT AND  
19 WOULD NOT AFFECT THE ANNUAL MAXIMUM FILL  
20 RATE, SITE CAPACITY, OR SITE LIFE OF THE  
21 LANDFILL. IMPOSING A MAXIMUM DAILY  
22 DISPOSAL RATE DOES NOT CHANGE THE  
23 ASSESSMENT OF IMPACTS OF THE LANDFILL  
24 EXPANSION PRESENTED IN THE EIR AND IS NOT  
25 ANTICIPATED TO RESULT IN ADDITIONAL

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1 SIGNIFICANT ENVIRONMENTAL IMPACTS."

2 TO STAFF WHAT THAT MEANT WAS THE

3 IMPACTS ANALYZED IN THE 1988 EIR, AT 582 TONS PER

4 DAY, WOULD NOT BE INCREASED. WHAT THE ADDENDUM

5 DID WAS LOOK AT A DAILY PEAK OF 3,000 ON ANY ONE

6 DAY. WHAT IF THEY TOOK 3,000 TONS, WOULD THAT

7 ADD ANY ADDITIONAL IMPACTS TO WHAT WAS ANALYZED

8 IN '88 AT THE 582 AVERAGE? THE ADDENDUM SAID

9 THERE WOULD BE NO ADDITIONAL IMPACTS. IT DIDN'T

10 SAY THEY COULD OPERATE AT 3,000 TONS EVERY DAY.

11 IT SAID IF THEY TOOK 3,000 IN ONE DAY FOR A PEAK

12 THERE WOULDN'T BE ANY ADDITIONAL IMPACTS.

13 SO THAT'S HOW WE'VE INTERPRETED IT IN

14 THAT 1991 PERMIT, AND WHY WE THINK THAT THE

15 AVERAGE OPERATION, WHAT IS PERMITTED AT THAT SITE

16 IS WHAT'S LIMITED BY THE '88 EIR AND THE '91

17 RDSI.

18 MEMBER JONES: MR. CHAIRMAN?

19 CHAIRMAN EATON: MR. JONES.

20 MEMBER JONES: YOU'VE GOT A '91 ADDENDUM

21 THAT YOU'RE QUOTING FROM, AND YOU'RE SAYING

22 THAT'S WHAT YOU'RE -- YOU KNOW, THAT'S WHAT

23 YOU'RE USING TODAY TO TRY TO FIGURE OUT HOW THIS

24 THING ALL WORKED.

25 MR. DIER: TO UNDERSTAND WHAT THE '91

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1 PERMIT ALLOWED.

2 MEMBER JONES: OKAY. LET ME ASK YOU, LET

3 ME HAVE YOU GO BACK BECAUSE YOU'VE BEEN HERE A

4 LONG TIME. THAT WAS THE DOCUMENT THAT GOT THEM

5 THIS PERMIT. THAT WAS THE DOCUMENT IN 1991 THAT

6 GOT THEM A 1991 PERMIT. AND IN THAT 1991 PERMIT

7

8 MR. DIER: IT WAS ONE OF THE DOCUMENTS.

9 MEMBER JONES: I UNDERSTAND. BUT WHAT

10 I'M SAYING IS -- WELL, YEAH, BECAUSE IF YOU GO

11 THROUGH THAT WHOLE LIST OF PEOPLE IT'S JUST ABOUT

12 EVERYBODY IN SAN JOSE.

13 MR. DIER: BUT IT ALLOWED THEM TO TAKE UP

14 TO 3,000 TONS ON ANY ONE DAY.

15 MEMBER JONES: IN THIS PERMIT, DON, THAT

16 CAME FROM THIS BOARD AND FROM THAT LEA, IT STATES

17 WHAT I READ INTO THE RECORD EARLIER. SO I DON'T

18 KNOW WHY WE KEEP GOING BACK TO '91 AND SAYING

19 WE'RE NOT SURE WHAT THEY MEANT, BECAUSE THE

20 RESULT OF WHAT THEY MEANT WAS THIS PERMIT, WHICH

21 VERY CLEARLY TELLS THEM -- TELLS US THAT IN 1996

22 THEY CAN HAVE 3650 TONS PER DAY.

23 AND ALL I'M TRYING TO SAY IS -- ALL

24 I'M NOT UNDERSTANDING IS THAT IF THIS PERMIT --

25 AND AT THE TIME I THINK -- IN '91, IF I REMEMBER

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1 RIGHT, BOARD STAFF HAD A CONSIDERABLY MORE  
2 INVOLVEMENT IN PERMITS AS OPPOSED TO TODAY, WITH  
3 PARTNERSHIP 2000. AND I SEEM TO RECALL THAT,  
4 BECAUSE I HAVE A LOT OF PERMITS THAT WENT THROUGH  
5 THIS PLACE AND PLAYED ROTATING STAFFER. EVERY  
6 TIME WE -- I HAVE ONE, OR WAS IN THE MIDDLE OF  
7 ONE.  
8 50 THAT'S WHERE I'M HAVING HEARTBURN  
9 HERE, IS THAT THIS THING WENT THROUGH, IT'S A  
10 PERMIT. THE ONE WE HAVE TODAY IS MORE  
11 RESTRICTIVE, MINIMIZES THE WASTE COMPARED TO WHAT  
12 THIS DID. TO REFER TO THE 1991 ADDENDUM AND SAY  
13 THIS IS WHAT WE THINK TODAY, IN 1998, MAKES NO  
14 SENSE TO ME. IT'S ALREADY BEEN USED. IT'S LIKE  
15 A HAND THAT GOT DEALT, YOU PLAYED IT OR YOU  
16 FOLDED. AT THIS TIME YOU GUYS FOLDED OR PLAYED,  
17 BUT THE END RESULT IS THIS PERMIT.  
18 MS. TOBIAS: AND I THINK THAT THAT'S WHAT  
19 I WAS GETTING AT INITIALLY WHEN I SAID THERE'S A  
20 LOT OF AMBIGUITY IN THIS. BECAUSE I DO THINK IF  
21 YOU LOOKED AT JUST THAT PERMIT WITH JUST THAT  
22 LANGUAGE, THAT THE PERMIT IS SUSCEPTIBLE TO BEING  
23 INTERPRETED THAT WAY.  
24 AND I DON'T WANT TO TAKE AWAY FROM  
25 THAT, BUT I THINK WHAT I WAS TRYING TO SAY

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1 ORIGINALLY ON THIS CHART, AND WHAT DON HAS BEEN

2 TRYING TO FILL IN HERE, IS THAT YOU CAN'T READ

3 THE PERMIT BY ITSELF. THE PERMIT BASICALLY SAYS

4 IN THERE THAT IT'S PREDICATED ON THE CONSISTENCY

5 WITH THE RDSI AND WITH THE 1988 EIR. YOU HAVE TO

6 TIE BACK TO THE 1988 EIR BECAUSE THE ADDENDUM IS

7 REALLY NO GOOD WITHOUT THE EIR.

8 MEMBER JONES: THE '91 PERMIT SAYS THAT?

9 MS. TOBIAS: YES.

10 AND SO WHAT YOU HAVE TO TIE TOGETHER

11 IS ALL OF THOSE THINGS, THE PERMIT LANGUAGE, THE

12 RDSI, AND THE EIR. AND I THINK, YOU KNOW, WHAT

13 WE WOULD SAY IS THERE IS SOME LANGUAGE IN THE

14 PERMIT ITSELF WHICH IS SUSCEPTIBLE TO BEING READ

15 THAT WAY.

16 BUT IF YOU LOOK AT THE RDSI, WHICH

17 CITES AN AVERAGE DAILY DISPOSAL RATE OF 590 TONS

18 PER DAY, IF YOU LOOK AT THE EIR, WHICH CITES 582

19 TONS PER DAY, THEN IT -- STAFF BELIEVES THAT WHAT

20 WE'RE REALLY TALKING ABOUT IS JUST A PEAK

21 SITUATION.

22 AND IT'S -- I THINK WHAT SENATOR

23 ROBERTI WAS GETTING AT IS THAT THE REASON THAT

24 THEY FELT ABLE, AND THE REASON THAT THE BOARD

25 STAFF ALLOWED AN ADDENDUM IS BECAUSE THERE WASN'T

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1 MUCH CHANGING, ALL THERE WAS WAS A SPIKE

2 SITUATION OF THE PEAK LOADING ON THAT.

3 CHAIRMAN EATON: PERHAPS, WITH THE

4 SENATOR AND THE OTHER BOARD MEMBERS' CONCURRENCE,

5 WE SHOULD HEAR FROM THE APPLICANTS AND THEN.

6 AND MY UNDERSTANDING IS, AND YOU CAN

7 CORRECT ME IF I'M WRONG, I HAVE FOUR SPEAKER

8 SLIPS, AND THEY WOULD LIKE TO HAVE THE ORDER AS

9 FOLLOWS: MR. MATTIEONI, MR. HORWEDEL, MR. LORD,

10 AND THEN MR. WYSE. IS THAT CORRECT?

11 MR. MATTIEONI: CORRECT.

12 CHAIRMAN EATON: OKAY. PLEASE STATE YOUR

13 NAME FOR THE RECORD.

14 MR. MATTIEONI: SURE. NORM MATTIEONI, ON

15 BEHALF OF THE OPERATOR OF THE LANDFILL. AND

16 YOU'VE GIVEN THE ROSTER OF SPEAKERS ON OUR

17 BEHALF, SO LET ME ADDRESS A COUPLE OF THE TOPICS

18 THAT I'VE HEARD UNDER CONSIDERATION HERE TODAY.

19 AND I WANT TO TAKE, AS THE FIRST ITEM

20 IN ORDER, ALTHOUGH CEQA SEEMS TO BE THE PRIMARY

21 FOCUS, I WANT TO TALK ABOUT THE CLOSURE AND POST-

22 CLOSURE.

23 CHAIRMAN EATON: WOULD YOU MIND IF WE

24 STAYED ON POINT JUST WITH REGARD TO THE CEQA

25 STUFF FIRST, AND THEN LOGICALLY MOVE INTO THE



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1 CLOSURE? SO, AND I DON'T MEAN TO DO THAT, BUT I  
2 THINK AT LEAST SINCE WE'RE ON THAT, YOU KNOW,  
3 CALL ME CRAZY AND FOLLOWING A CERTAIN LINE OF  
4 LOGIC, BUT....  
5 MR. MATTIEONI: RIGHT, YOU WANT TO MAKE  
6 SURE IF I CAN ADAPT, AND I WILL.  
7 IN REGARD TO THE ISSUE THAT HAS BEEN  
8 THE PRIMARY FOCAL POINT HERE THIS AFTERNOON, I  
9 WANT TO FOCUS YOU ON, AGAIN, THE RECORD ON WHICH  
10 YOU FOLKS WERE RELYING, IN 1991 -- OR YOUR  
11 PREDECESSOR BOARD WAS RELYING, AND CONCURRING IN  
12 THE LEA PERMIT.  
13 AND I THINK A KEY ITEM IS ON THE  
14 CHART THAT YOU HAVE IN FRONT OF YOU UNDER STAFF  
15 REPORT. STAFF UNDERSTOOD, IN 1991, THAT THE  
16 DAILY AVERAGE TONNAGE WAS 3,000 PER DAY  
17 OPERATING.  
18 WHICH TIES RIGHT BACK TO THE FINDINGS  
19 IN THAT PERMIT THAT WE'VE HEARD DISCUSSED THIS  
20 AFTERNOON OF THE SPECIFICITY -- WHEN WE START  
21 WITH THE PHRASE "DAILY MAXIMUM OF 3,000 TONS PER  
22 DAY FOR 1991 AND THE GRADUATED INCREASE" AND GO  
23 THROUGH WHAT THAT WOULD PRODUCE FOR EACH YEAR UP  
24 TO 1996, WHEN YOU GET TO THE 3,650 TON LEVEL,  
25 EVERYONE KNEW, THIS WAS NOTICED AND CONCURRED IN

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1 BY THIS BOARD IN 1991.  
2 FURTHER, I HAVE A COPY OF WHAT WAS  
3 THE JULY 15, 1991 INTEGRATED WASTE MANAGEMENT  
4 BOARD PERMIT DESK MANUAL FOR SOLID WASTE  
5 FACILITIES PERMITS. AND THIS IS IN CHAPTER SIX,  
6 AND UNDER THAT, IN TERMS OF WHAT THE PERMIT SHALL  
7 CONTAIN AS REGULATIONS IS PERMITTED TONS PER  
8 OPERATING DAY. THAT IS THE APPROVED MAXIMUM TONS  
9 PER DAY OF EACH TYPE OF WASTE IDENTIFIED. AT  
10 THAT TIME, IN THE DESK MANUAL, THERE WAS NO  
11 INDICATION OF DISTINGUISHING BETWEEN PEAK AND  
12 AVERAGE -- ANNUAL AVERAGE OR DAILY AVERAGE, IT  
13 WAS ONE ITEM, APPROVED MAXIMUM TONS PER DAY.  
14 WHEN YOU TAKE THAT PHRASE ITS LOGICAL  
15 MEANING IS THAT YOU CAN BE UP TO THAT MAXIMUM AT  
16 ANY GIVEN TIME. THE ONLY POINT THAT STAFF RELIES  
17 ON TO CONTRADICT THAT IS NOT WHAT THEIR STAFF  
18 REPORT SAID IN 1991, BUT THE TAG LINE IN THE  
19 PERMIT PARAGRAPH OF ALLOWING FLEXIBILITY FROM DAY  
20 TO DAY, AND THAT BECOMES THE DRIVING FORCE. WHEN  
21 BEFORE THAT LANGUAGE, THROUGHOUT THE PARAGRAPH,  
22 WE HAVE ALL THIS SPECIFICITY THAT FITS THE DESK  
23 MANUAL.  
24 SO WHEN YOU GET TO 1998 YOU FIND THAT  
25 THE GUIDELINES HAVE NOT CHANGED IN ASKING FOR A

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1 AVERAGE OR MAXIMUM -- IT'S NOT DISTINGUISHING  
2 BETWEEN PEAK AND AVERAGE DAILY AMOUNTS, BUT THE  
3 APPLICATION HAS A LINE FOR THAT. AND, YES, IT IS  
4 CORRECT THAT THE LEA TOOK A MORE RESTRICTIVE VIEW  
5 IN 1998 TO BRING TO YOU, IN TERMS OF PUTTING THE  
6 PEAK, IF YOU WILL, THAT NOW IS THE DEFINITION FOR  
7 THE MAXIMUM -- AND I WANT TO STRESS THAT WAS, AT  
8 LEAST IN ANYTHING I FIND IN THE RECORD, NEVER A  
9 DEFINITION THAT APPLIED IN 1991. BUT TODAY YOU  
10 HAVE THAT PEAK THAT CAN BE UP TO 3,650, AND YOU  
11 HAVE THE ANNUAL DAILY AVERAGE OF 3,000 TONS PER  
12 DAY. SO I THINK YOU HAVE TO LOOK AT THE RECORD  
13 AND PUT THOSE PIECES TOGETHER.  
14 AND I WANT YOU TO ALSO HEAR FROM JOE  
15 HORWEDEL, WHO'S THE AUTHOR OF THE LETTER FROM THE  
16 CITY OF SAN JOSE PLANNING DEPARTMENT OF FEBRUARY  
17 19TH, IN TERMS OF HOW THE CITY CHOSE TO PURSUE AN  
18 ADDENDUM IN 1991, AND ONCE AGAIN, IN TERMS OF  
19 COMING BACK TO YOU AT THIS TIME BY ADDENDUM.  
20 BECAUSE WHAT IT WAS LOOKING AT WAS  
21 THE 1988 EIR IN ITS TOTALITY, AND ALL THE IMPACTS  
22 THAT WERE ANALYZED, AND WHETHER THEY WOULD CHANGE  
23 BASED ON WHAT WE'RE TALKING ABOUT. AND THEY  
24 FOUND NO REASON TO CHANGE IN 1991, OR ANY  
25 SIGNIFICANT CHANGE TO THE TOTALITY OF IMPACTS

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1 THAT WERE ANALYZED, THE MITIGATION MEASURES THAT  
2 WERE SET FORTH -- AND WE CAN GO THROUGH THE  
3 LITANY OF THAT IF YOU CHOOSE. NOT ONLY TRAFFIC,  
4 BUT THE OVERALL APPEARANCE OF THE LANDFILL, THE  
5 CONCERNS OF IMPACT ON WILDLIFE, THE LIFE OF THE  
6 LANDFILL, AND SO FORTH WAS IDENTIFIED THROUGHOUT  
7 THAT DOCUMENT.  
8 AND THE ATTACHMENT TO MR. HORWEDEL'S  
9 TRANSMITTAL TO YOU GIVES A REVIEW OF THE  
10 HYDROLOGY, LAND USE, THE POLICIES, BIOLOGY,  
11 TRAFFIC AND CIRCULATION, NOISE, PUBLIC SAFETY,  
12 VISUAL RESOURCES, AND NONE OF THAT IS IMPACTED BY  
13 THIS SO-CALLED CHANGE. IF IT'S A CHANGE INSTEAD  
14 OF A CLARIFICATION, IT IS NOT A SIGNIFICANT ONE  
15 WHEN YOU LOOK AT THE LARGER DOCUMENT.  
16 IF YOU WANT, CERTAINLY I'LL BE HAPPY  
17 TO ANSWER ANY QUESTION. BUT PERHAPS YOU WANT TO  
18 HEAR FROM MR. HORWEDEL ON THE LARGER ISSUE OF THE  
19 ANALYSIS BY THE CITY, AND THEN I COULD COME BACK  
20 ON THE CLOSURE AND POST-CLOSURE ITEM.

21 MR. HORWEDEL: THANK YOU. I'M JOSEPH  
22 HORWEDEL WITH THE CITY OF SAN JOSE PLANNING  
23 DEPARTMENT, I'M DEPUTY DIRECTOR IN CHARGE OF  
24 IMPLEMENTATION, WHICH INCLUDES THE ENVIRONMENTAL  
25 REVIEW PROCESS.

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1 AS MR. MATTIEONI SAID, WE HAD SENT A  
2 LETTER TO THE BOARD EXPLAINING HOW WE WENT  
3 THROUGH THE PROCESS OF MAKING AN ENVIRONMENTAL  
4 DETERMINATION FOR THIS PROJECT, AND I WANT TO GO  
5 AND KIND OF EXPLORE THAT WITH YOU A LITTLE BIT OF  
6 HOW THAT WORKS ON A DAY-TO-DAY BASIS, AS WELL AS  
7 HOW IT APPLIED TO THIS PROJECT.

8 AS MR. MATTIEONI SAID, THE ORIGINAL  
9 EIR IN '88 ADDRESSED NUMEROUS DIFFERENT  
10 ENVIRONMENTAL OR POTENTIAL ENVIRONMENTAL ISSUES  
11 AND IMPACTS. OUT OF THOSE THERE WERE THE ISSUES  
12 OF TRAFFIC AND AIR QUALITY, NOISE, LAND USE THAT  
13 WERE IDENTIFIED AS MAJOR ISSUES. AND IN FACT THE  
14 NOISE ISSUE WAS ONE OF THE ONES THAT THE CITY  
15 COUNCIL, IN APPROVING THE EIR AND THE PLAN  
16 DEVELOPMENT ZONING THAT ALLOWED THE LANDFILL TO  
17 ACTUALLY EXPAND, ADOPTED A STATEMENT OF  
18 OVERRIDING CONSIDERATIONS. THAT'S AN IMPORTANT  
19 POINT BECAUSE --

20 MEMBER JONES: WHEN WAS THIS EIR ADOPTED?

21 MR. HORWEDEL: IN 1988.

22 MEMBER JONES: THE ORIGINAL --

23 MR. HORWEDEL: THE ORIGINAL EIR.

24 THE ADOPTION OF A STATEMENT OF

25 OVERRIDING CONSIDERATIONS IS ONE OF THE THINGS

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1 THAT'S INSTRUMENTAL IN THE WHOLE QUESTION ABOUT  
2 WHETHER WE CAN ISSUE A NEGATIVE DECLARATION OR  
3 NOT.  
4 CEQA DOES NOT ALLOW THE ADOPTION OF A  
5 NEGATIVE DECLARATION FOR AN IMPACT THAT HAS A  
6 SIGNIFICANT BUT UNMITIGATED NATURE TO IT. AND  
7 THAT ONE OF THE ISSUES WITH THIS LANDFILL IS, IN  
8 FACT, THE TRAFFIC THAT GOES IN FRONT OF SOME  
9 RESIDENTIAL DEVELOPMENT ON GUADALUPE MINES ROAD.  
10 THE EIR THAT WAS DONE IN 1988  
11 ADDRESSED THE TRAFFIC THAT OCCURRED ON THAT  
12 STREET, IT LOOKED AT IT FROM THE CITY'S STANDARD  
13 OF SIGNIFICANT, WHICH IS OUR LEVEL OF SERVICE  
14 POLICY. WE ARE ONE OF THE FEW CITIES IN SANTA  
15 CLARA COUNTY THAT ACTUALLY HAVE A LEVEL OF  
16 SERVICE POLICY, SO WE APPLY THAT TO ALL  
17 DEVELOPMENT IN THE CITY OF HOW WE ADDRESS TRAFFIC  
18 IMPACTS.  
19 WE LOOKED AT HOW THIS PROJECT, IN  
20 1999, FITS BACK TO NOT ONLY THE ORIGINAL EIR IN  
21 1988, AS WELL AS THE LEVEL OF SERVICE POLICY  
22 TODAY IN THE CITY. AND WE LOOKED AT IS THERE, IN  
23 FACT, A SIGNIFICANT IMPACT THAT IS CREATED, THAT  
24 WAS NOT THERE IN 1998, BUT IS THERE NOW WHEN YOU  
25 GO TO A 3600 TONS-PER-DAY, EVERY DAY, SEVEN-DAY

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1 A-WEEK OPERATION. AND OUR CONCLUSION WAS THAT  
2 THERE WAS NOT A SIGNIFICANT IMPACT. MEANING THAT  
3 IT MET OUR LEVEL OF SERVICE POLICY, WE DID NOT  
4 HAVE TRAFFIC THAT WAS GOING THROUGH OUR  
5 INTERSECTIONS THAT 'WAS BEYOND THE CAPACITY OF  
6 DEVELOPMENT --

7 MEMBER JONES: ARE YOU SAYING THAT THE  
8 1988 EIR DID NOT CONTEMPLATE A 3650, OR MAYBE A  
9 3,000 TONS PER DAY EVERY DAY DISPOSAL?

10 MR. HORWEDEL: THE EIR DEALT WITH THE  
11 TOTAL BUILD-OUT OF THE LANDFILL, AND IT INCLUDED  
12 IN IT SOME NUMBERS THAT HAVE BEEN TALKED ABOUT  
13 TODAY OF -- I THINK IT WAS 700, 600 TONS PER DAY  
14 THAT WERE MENTIONED. THAT'S THE AMOUNT THAT'S  
15 ACTUALLY GETTING LANDFILLED. THE EIR DIDN'T TALK  
16 ABOUT WHAT WAS A DAILY AMOUNT OF COMING-IN-THE-  
17 GATE NUMBER.

18 MEMBER JONES: BUT THE ISSUE HERE -- AN  
19 ISSUE IN MY MIND, AND I THINK AN ISSUE BEFORE US,  
20 IS IF AT SOME POINT, ESPECIALLY WITH THE CURRENT  
21 PERMIT REQUEST, WE WILL NOT BE GIVING PROPER  
22 NOTICE TO PEOPLE WHO MIGHT BE ADVERSELY IMPACTED  
23 OVER AND ABOVE WHAT THE EXISTING STATUS QUO IS,  
24 STATUS QUO FORMULATED, IN PART, IN 1988, AND THAT  
25 STATUS QUO OF TRYING TO FIGURE OUT DID THAT

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1 CONTEMPLATE A 3,650, OR EVEN A 3,000 TONS PER DAY  
2 DISPOSAL.  
3 IT'S SOMETHING THAT YOU JUST SAID  
4 EARLIER, THAT IF THERE'S AN ADVERSE IMPACT OF NOW  
5 -- I'M ADDING THE WORD "NOW" -- EVERY DAY THERE'S  
6 GOING TO BE 3,650 TONS DISPOSED OF. WELL, THAT  
7 SOUNDS IN MY MIND THAT THE CITY OF SAN JOSE, IN  
8 ITS ORIGINAL EIR -- RATHER, IN ITS ORIGINAL  
9 PERMIT DIDN'T CONTEMPLATE THAT MUCH. IN FACT,  
10 PROBABLY MIGHT HAVE BEEN CONTEMPLATING ONLY 582  
11 TONS PER DAY.  
12 NOW, I COULD BE TOTALLY WRONG, BUT IT  
13 SOUNDS LIKE WHAT YOU'RE SAYING IS, SAYING THAT  
14 EVEN THOUGH YOUR CURRENT FINDING IS THAT THERE'S  
15 NO ADVERSE IMPACT, IN MY HUMBLE ESTIMATION, IF  
16 YOU ARE GOING TO INCREASE FROM 582 TO 3,000 ON A  
17 DAY-TO-DAY BASIS, EVEN THOUGH IN THE EARLIER  
18 PERIOD SOMETIMES YOU DID HIT THAT 3,000 -- OR  
19 3,650, ALL THAT'S UP IN THE AIR TO US TOO -- IF I  
20 WERE A NEIGHBOR IN THAT AREA THAT'D BE AN IMPACT  
21 TO ME, AND I'D CERTAINLY WANT TO KNOW ABOUT IT.  
22 MR. HORWEDEL: YEAH. MR. CHAIR, I THINK  
23 THE ISSUE REALLY IS, IS THAT LEVEL OF  
24 SIGNIFICANCE. IT'S THE SAME THING THAT WE GO  
25 THROUGH IN APPROVING NEW HOUSING IN SAN JOSE,



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1 THAT WE DO A LOT OF IN-FILL, HIGH-DENSITY  
2 DEVELOPMENT, AND THAT'S THE SAME ARGUMENT THAT  
3 COMES FROM THE NEIGHBORHOOD ABOUT, WELL, MY  
4 STREET ONLY HAS 50 CARS A DAY ON IT, IT'S A FOUR-  
5 LANE ROAD, BUT IT'S ONLY GOT 50 CARS A DAY ON IT.  
6 BUT AS A PART OF OUR MASTER PLAN  
7 WE'RE ASSUMING THAT WE'RE GOING TO HAVE HIGH-  
8 DENSITY HOUSING, AND JOBS, AND SHOPPING CENTERS.  
9 AND THEY GO, WELL, I DON'T WANT TO HAVE THE  
10 TRAFFIC INCREASE 3,000-FOLD WHEN THEY ADD ANOTHER  
11 300 CARS ONTO THAT ROAD. THE ROADWAY'S ABLE TO  
12 HANDLE NUMBERS WELL IN EXCESS OF THAT. BUT  
13 BECAUSE IT IS A RELATIVE NUMBER CHANGE THEY SEE  
14 THAT AS A LEVEL OF SIGNIFICANT.  
15 IN THE CITY OF SAN JOSE, AS IN MOST  
16 CITIES, THAT IS NOT A THRESHOLD OF SIGNIFICANCE.  
17 THE SIGNIFICANCE IS BASED TO DISCREET THRESHOLDS  
18 THAT CROSS. AND IN SAN JOSE WE USE THE CAPACITY  
19 OF INTERSECTIONS FOR LEVEL OF SERVICE, WE USE  
20 DISCREET CAPACITY TO SEWER LINES FOR OUR SANITARY  
21 OR STORM SEWER. WE HAVE IT FOR ALL DIFFERENT  
22 SORTS OF ENVIRONMENTAL IMPACTS. WE LOOK AT WHAT  
23 ARE THOSE THRESHOLDS, AND IF YOU CROSS THOSE THEN  
24 YOU GET INTO THE QUESTION OF WHAT DO YOU DO ABOUT  
25 THAT ENVIRONMENTALLY.

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1 IN THIS CASE WE HAVE AN EIR THAT WAS  
2 ADOPTED THAT DOES NOT IDENTIFY LEVEL OF SERVICE  
3 OR TRAFFIC IMPACTS AS A SIGNIFICANT IMPACT. IT  
4 SAID THAT THE PROJECT, AT THE TIME IT WENT  
5 THROUGH, MET THIS LEVEL OF SERVICE POLICY. THE  
6 PROJECT THAT IS BEFORE YOU TODAY MEETS THE CITY'S  
7 LEVEL OF SERVICE POLICY.  
8 SO UNDER CEQA, AND HOW YOU DEAL WITH  
9 AN ADDENDUM VERSUS DOING A SUPPLEMENTAL EIR, IS  
10 THAT IT'S NOT JUST IS THERE A CHANGE IN PROJECT,  
11 OR NEW INFORMATION THAT'S NOT PREVIOUSLY  
12 AVAILABLE, IT'S ALSO IS THERE ANY SIGNIFICANT NEW  
13 IMPACTS THAT WERE NOT PREVIOUSLY ADDRESSED IN THE  
14 EIR.  
15 SO IF THIS PROJECT WAS GOING TO  
16 CREATE AN IMPACT ON TRAFFIC THAT WAS A  
17 SIGNIFICANT IMPACT THEN THERE WOULD BE NO  
18 QUESTION, WE'D GO BACK AND DO A SUPPLEMENTAL EIR.  
19 BUT SINCE THERE IS NO TRAFFIC THAT IS DEEMED TO  
20 BE A SIGNIFICANT IMPACT BY THE CITY OF SAN JOSE,  
21 WE DO NOT CONSIDER THAT THAT IS GROUNDS TO GO AND  
22 RECIRCULATE THE EIR.  
23 ONE OTHER PIECE I WANTED TO TALK  
24 ABOUT RELATED TO THAT IS THE NEGATIVE DECLARATION  
25 QUESTION, GOING BACK TO THAT. BECAUSE WE HAVE AN

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1 EIR THAT IDENTIFIES NOISE AS A SIGNIFICANT IMPACT  
2 -- AND THAT WAS CORRECTLY IDENTIFIED, THAT THERE  
3 ARE RESIDENTS THAT FRONT ONTO THAT ROAD, AND THAT  
4 THERE IS THE POTENTIAL FOR NOISE BEING A  
5 SIGNIFICANT IMPACT, FOR WHICH THERE IS NO  
6 MITIGATION BECAUSE OF THE OPERATION HOURS OF THE  
7 LANDFILL. THEY ARE OUT THERE EARLY AT 6:00 A.M.,  
8 THEY'RE IN THERE LATE, AND THAT IS SOMETHING THAT  
9 IS A DISRUPTIVE ACTIVITY.  
10 THAT WAS IDENTIFIED IN THE EIR AS  
11 BEING AN IMPACT THAT WAS OUT -- WE WENT OUT TO  
12 THE NEIGHBORHOOD, WE HAD NUMEROUS COMMUNITY  
13 MEETINGS ABOUT IT. AND IN FACT, THE NEW HOUSING  
14 THAT'S BEEN BUILT IN THE AREA, THEY ARE WELL  
15 AWARE OF THIS LANDFILL AND WHAT IT MEANS HAVING A  
16 LANDFILL FRONTING ONTO THEM.  
17 I WAS THE PERSON WHO ACTUALLY WORKED  
18 ON THESE HOUSING PROJECTS, AND SAT OUT AT  
19 NEIGHBORHOOD MEETINGS THROUGH THE GENERAL PLAN  
20 PROCESS, THE REZONING PROCESS, AND THE PERMITTING  
21 PROCESS, SO THAT THE PEOPLE UNDERSTOOD WHAT THEY  
22 WERE MOVING IN NEXT TO. IS THAT WE DEALT WITH  
23 THE NOISE ISSUES RELATED TO THE -- HAVING A  
24 LANDFILL AS A NEIGHBOR.  
25 AND THAT'S THE REASON WE CAN'T ISSUE

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1 A NEGATIVE DECLARATION FOR THIS, BECAUSE WE HAVE  
2 A SIGNIFICANT UNMITIGATED IMPACT, THERE IS NO WAY  
3 TO MITIGATE THAT NOISE IMPACT. SO WE ARE BARRED  
4 FROM CEQA FROM ACTUALLY ISSUING A NEGATIVE  
5 DECLARATION. THAT'S NOT EVEN AN OPTION THAT'S  
6 AVAILABLE TO THE CITY.

7 CHAIRMAN EATON: SENATOR ROBERTI?

8 MEMBER ROBERTI: YEAH, TWO POINTS. I  
9 HEAR EVERYTHING YOU SAY, BUT EVERYTHING IS --  
10 THAT YOU'RE SAYING IS PREDICATED ON THE CITY  
11 MAKING A DECISION, AND I DON'T THINK THAT IS THE  
12 ONLY ISSUE BEFORE US.

13 THE ISSUE BEFORE US IS IF THE WHOLE  
14 PROCESS GAVE PROPER NOTICE SO THAT IN THE FORMAL  
15 SENSE OF CEQA THE RESIDENTS, OR ANYBODY ELSE WHO  
16 SHOULD HAVE BEEN PROPERLY NOTICED, SHOULD HAVE  
17 PARTICIPATED IN THAT DECISION-MAKING. NOT  
18 THROUGH COMMUNITY MEETINGS THAT DIDN'T FOLLOW  
19 CEQA, BUT THROUGH THE FORMALIZED CEQA PROCESS.  
20 AND I HAVEN'T HEARD ANYTHING OF THAT'S THE CASE.  
21 IN FACT, THE FACT THAT AN ADDENDUM  
22 WAS USED INDICATES THAT IN YOUR OWN MIND THERE --  
23 YOU WEREN'T CONTEMPLATING THIS AVERAGE INCREASED  
24 DAILY TONNAGE. THAT'S SOMETHING THAT'S SORT OF  
25 CREEPING UP ON US RIGHT NOW.

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1 SO EVERYTHING YOU SAY MAY BE CORRECT,  
2 I'M NOT ARGUING WITH THAT, I DON'T THINK THAT'S  
3 WHAT'S BEFORE US. AND THAT IS, THERE'S NOT GOING  
4 TO BE ANY NOISE PROBLEM, THERE'S NOT GOING TO BE  
5 ANY INCREASED TRUCKAGE. THE ISSUE IS WHO MAKES  
6 THAT DECISION, WHOSE TWO CENTS COME INTO THE  
7 DECISION-MAKING PROCESS.  
8 AND I HAVEN'T HEARD ANYTHING THAT,  
9 ACCORDING TO THE FORMAL REGULATIONS THAT WE HAVE,  
10 THE LANGUAGE INCREASE FROM 582 TO 3,000 WAS  
11 SOMETHING THAT WAS FORMALLY NOTICED IN THE  
12 IMPACT, FORMALLY NOTICED TO THE VARIOUS  
13 RESIDENTS, AND IT APPEARS TO BE THERE ARE A  
14 NUMBER OF THEM WHO LIVE IN THIS GENERAL ARE,  
15 NUMBER ONE.  
16 NUMBER TWO, THE OWN TEXT OF YOUR  
17 OCTOBER 17TH ADDENDUM REGARDING THE ARGUMENTS  
18 WHICH YOU ARE RAISING, REGARDING IMPACT, STATES  
19 (PRESUMED QUOTATION)  
20 "IMPOSING A MAXIMUM DAILY DISPOSAL  
21 RATE DOES NOT CHANGE THE ASSESSMENT OF  
22 IMPACTS ON THE LANDFILL EXPANSION  
23 PRESENTED IN THE EIR AND IT IS NOT  
24 ANTICIPATED TO RESULT IN ADDITIONAL  
25 SIGNIFICANT ENVIRONMENTAL IMPACTS."

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1 THAT INDICATES WHAT THE CITY ITSELF  
2 WAS SAYING. AND YET WE HAVE A SIGNIFICANT  
3 INCREASE IN THE LANGUAGE OF THE PERMIT THAT THE  
4 CITY -- YOU KNOW, THAT THE CITY HAS APPROVED, OR  
5 THE ADDENDUM THAT THE CITY HAS APPROVED THEN, AND  
6 APPARENTLY NOW. SIGNIFICANT INCREASES.

7 SO CAN YOU ADDRESS THOSE TWO POINTS?

8 AND FIRST AND PRIMARILY, THE POINT WHO MAKES THE  
9 DECISION. AND I THINK THAT'S THE ISSUE BEFORE US  
10 ON CEQA. CEQA IS AS MUCH A NOTICE ISSUE AS IT IS  
11 A SUBSTANTIVE ISSUE.

12 MR. HORWEDEL: MR. CHAIR, CEQA'S INTENT  
13 IS TO PROVIDE INFORMATION TO THE DECISION-MAKERS.  
14 FOR SAN JOSE THE DECISION-MAKERS ARE THE CITY  
15 COUNCIL, AND THE DIRECTOR OF PLANNING IS THE  
16 PERSON WHO IS CHARGED WITH MAKING A DETERMINATION  
17 OF ADEQUACY OF THE ENVIRONMENTAL DOCUMENTS.  
18 AS A PART OF THE WHOLE QUESTION OF  
19 DOES CEQA DRIVE THE PUBLIC OUTREACH PROCESS OR  
20 DOES THE PROJECT DRIVE THE PUBLIC OUTREACH  
21 PROCESS I THINK IS A QUESTION FOR THE BOARD TO  
22 CONSIDER. IN SAN JOSE WE HAVE A WAY THAT WE DEAL  
23 WITH PUBLIC OUTREACH THAT IS SEPARATE OF WHAT THE  
24 STATE MANDATES US TO DO. SO I REALLY CAN'T TELL  
25 YOU HOW YOU SHOULD DEAL WITH THAT PART OF IT.

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1 I DO BELIEVE THAT THE -- UNDER THE  
2 VERY STRICT DEFINITIONS THAT THE CITY OPERATES  
3 UNDER CEQA, AND THAT WE DO HAVE A VERY  
4 CONSERVATIVE CITY ATTORNEY THAT CONTROLS WHAT IT  
5 IS THAT WE DO WITH CEQA, THAT WE HAVE MET THE  
6 TEST OF CEQA. WHICH IS THAT THERE ARE NO NEW,  
7 UNIDENTIFIED SIGNIFICANT IMPACTS, THAT THERE IS  
8 NO NEW INFORMATION THAT IS PRESENTED THAT WAS NOT  
9 PREVIOUSLY A PART OF THE FOUNDATION OF THAT  
10 DOCUMENT, THE EIR IN 1988, THAT WE'VE MET THE  
11 TEST UNDER CEQA. THAT THIS IS, IN FACT, AN  
12 ADEQUATE ENVIRONMENTAL REVIEW.  
13 AND I HATE THAT TERM, BUT THAT IS  
14 WHAT CEQA LEGISLATION SAYS, IS THAT YOU HAVE  
15 UTILIZED THE BEST INFORMATION AVAILABLE, AND YOU  
16 MAKE THE BEST DECISION THAT YOU CAN WITH THAT  
17 INFORMATION THAT'S AVAILABLE. AND WE FEEL THAT -  
18 - THE CITY OF SAN JOSE FEELS THAT WE HAVE DONE  
19 THAT.

20 MEMBER ROBERTI: PERHAPS I CAN ASK A  
21 QUESTION IF...? IT IS A FAIR STATEMENT TO SAY  
22 THAT YOU DO NOT SHARE MS. TOBIAS' VIEW THAT AN  
23 ADDENDUM IS STRICTLY A TECHNICAL DOCUMENT, AS IT  
24 RELATES TO THIS ITEM?

25 MR. HORWEDEL: MORE IMPORTANTLY, OUR CITY

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1 ATTORNEY DOES NOT VIEW THAT. OUR CITY ATTORNEY  
2 HAS DEFENDED A LOT OF LAW SUITS, THAT WE'VE BEEN  
3 SUED LIKE MOST MAJOR JURISDICTIONS OVER CEQA AND  
4 OTHER ISSUES.  
5 SO AS I SAID, WE DO TRY TO BE PRETTY  
6 CONSERVATIVE IN WHAT WE PUT FORTH OUT THERE.  
7 MOST CHALLENGES TO PROJECTS ARE ENVIRONMENTAL-  
8 BASED, SO THAT WE DO TAKE THE TIME TO LOOK AT THE  
9 ENVIRONMENTAL RECORD TO MAKE SURE THAT, IN FACT,  
10 THAT IF THERE IS LITIGATION THAT IT'S DEFENSIBLE.  
11 AND JIM GALLO HAS REVIEWED WHAT HAS  
12 COME FORWARD, HAD DISCUSSIONS WITH OUR LAND USE  
13 ATTORNEY, WHO DEALS WITH THIS ON A DAY-TO-DAY  
14 BASIS, AND IS VERY COMFORTABLE WITH WHAT WE'VE  
15 PUT FORWARD TODAY BEFORE YOU.

16 MEMBER ROBERTI: THE 1988 EIR DEALT WITH  
17 THE 582. CORRECT?

18 MR. HORWEDEL: THE 1988 EIR DEALT WITH  
19 THE EXPANSION OF THE LANDFILL. AND IN THAT THERE  
20 IS THAT NUMBER THAT IS MENTIONED.

21 MEMBER ROBERTI: BUT AS IT RELATES TO THE  
22 TRAFFIC IT WAS ABOUT 582 --

23 MR. HORWEDEL: IT RELATED TO THE TONS PER  
24 DAY THAT WERE BEING LANDFILLED INTO THE SITE.  
25 AND THERE WAS A TRAFFIC ANALYSIS THAT WAS



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1 CONDUCTED WITH THAT -- UNFORTUNATELY I DON'T HAVE  
2 THE NUMBERS IN FRONT OF ME OF HOW MANY TRIPS PER  
3 DAY WERE ACTUALLY CALCULATED.  
4 BUT THAT'S -- REALLY THE RELEVANT  
5 NUMBER IS WHAT WERE THE NUMBER OF CARS THAT WERE  
6 GOING UP AND DOWN THE STREET AND -- BECAUSE YOUR  
7 NOISE ANALYSIS AND EVERYTHING, IT BASES (PHON)  
8 OFF OF THAT.  
9 BUT WE WANTED TO MAKE SURE THAT WE  
10 WERE LOOKING AT TODAY'S WORLD WHEN WE DID THIS  
11 ADDENDUM. THAT WE ACTUALLY WENT OUT AND TOOK THE  
12 WORST CASE, WHICH IS 3650 TONS PER DAY COMING  
13 INTO THIS SITE, AND LOOKING AT IT FROM TRAFFIC,  
14 FROM AIR QUALITY, YOU KNOW, ALL THOSE THINGS THAT  
15 YOU WOULD -- THE NEIGHBORS THAT ARE GOING OUT  
16 THERE AND RAISE THE QUESTIONS ABOUT, TO GO  
17 THROUGH AND ANSWER THOSE QUESTIONS.  
18           CHAIRMAN EATON: THAT'S WHAT I'M TRYING  
19 TO GET AT, BECAUSE AT SOME POINT THE LINEAR  
20 THINKING FOR BOTH OF YOU -- OR, YOUR CITY  
21 ATTORNEY AND OUR COUNSEL, SPLIT. AND I THINK  
22 THAT'S REALLY SORT OF THE CRUX OF WHERE I'M AT,  
23 BECAUSE IF YOU GO ALONG YOUR LINES, THAT THE  
24 ADDENDUM WAS JUST USED AS A SUBSTITUTE  
25 ENVIRONMENTAL DOCUMENT TO CLEAN UP SOME THINGS,

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1 YOU KNOW, TO GIVE YOU THE BEST INFORMATION.  
2 THE OTHER LINE OF REASONING IS THAT  
3 AT A CERTAIN POINT IT WAS BASED ON 582. THERE  
4 WAS A TECHNICAL DOCUMENT THAT SAID THERE MAY BE  
5 PEAKS, IN 1991. THEN IN 1998 IT'S UP TO 3650.  
6 AND THEN YET IN YOUR LETTER YOU TALK ABOUT IT AS  
7 THE BASIS OF THE 1988(SIC) ADDENDUM.  
8 SO THE LOGIC SAYS IF IT'S A TECHNICAL  
9 DOCUMENT USED JUST STRICTLY FOR CLEANUP -- AND I  
10 HAVEN'T QUITE DECIDED, YOU KNOW, WHERE I'M AT ON  
11 THIS ISSUE -- THEN THE -- IT DOESN'T MATTER, AT  
12 LEAST IN MY OPINION, THAT IT FORMS A BASIS FOR  
13 THE 1998 ADDENDUM SINCE IT'S REALLY TECHNICAL AND  
14 DOESN'T HAVE ANY PLACE AS AN ENVIRONMENTAL  
15 DOCUMENT, IT'S STRICTLY SOMETHING THAT KIND OF  
16 BOOSTS.  
17 BUT ON THE OTHER HAND YOUR LOGIC  
18 WOULD HAVE IT, THAT IF IT FOLLOWS, IT IS AN  
19 ENVIRONMENTAL DOCUMENT, IT SORT OF PROVIDES THE  
20 ADEQUATE NOTICE AND INFORMATION.  
21 AND SO THAT'S WHAT I'M JUST TRYING TO  
22 GET, THE DIVERGENCE RIGHT THERE FROM YOU.  
23 MR. HORWEDEL: MR. CHAIR, I FIND -- COULD  
24 YOU KIND OF PUT THAT A DIFFERENT WAY? I LOST IT  
25 SOMEWHERE IN THE MIDDLE THERE, I APOLOGIZE.

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1           CHAIRMAN EATON: OKAY. I'M JUST TRYING  
2 TO GET AT -- AND THIS MIGHT NOT BE A FAIR  
3 QUESTION OF YOU BECAUSE, YOU KNOW, YOU'RE JUST  
4 TRYING TO REPEAT WHAT YOUR COUNSEL HAVE. BUT I'M  
5 TRYING TO GET THE UNDERPINNINGS OF THE CEQA  
6 ANALYSIS THAT AN ADDENDUM, AS USED HERE OR  
7 ANYWHERE ELSE -- AND I THINK, YOU KNOW, WE HAVE  
8 TO REMOVE OURSELVES FROM THAT, BECAUSE I'M  
9 LOOKING BACK....  
10 AND AS I MENTIONED DURING MY  
11 BRIEFING AND MY CONVERSATION WITH THE APPLICANT,  
12 THAT I WAS -- WE ARE A LITTLE BIT GUN-SHY, GIVEN  
13 THE FACT THAT WE DID USE AN ADDENDUM JUST  
14 RECENTLY WITH ANOTHER MATTER THAT CAME BEFORE  
15 THIS BOARD, AND IT WAS ONE THAT CAUSED US SOME  
16 GRIEF, SO WE'RE A LITTLE BIT GUN-SHY. AND IN  
17 THAT DOCUMENT THE BOARD'S POLICY, IF I'M NOT  
18 MISTAKEN, FOLLOWED THAT IT WAS REALLY DUE TO  
19 TECHNICAL KINDS OF MATTERS.  
20 SO THAT'S KIND OF WHERE THE BIAS IS,  
21 AND I'M JUST TRYING TO FIND OUT FROM YOUR OWN,  
22 YOU KNOW, PERSPECTIVE -- AND IT MAY NOT BE YOU,  
23 AND THAT'S WHY I'M SAYING NOT A FAIR QUESTION FOR  
24 YOU, IT MAY BE FOR YOUR COUNSEL -- AS TO WHY YOU  
25 THINK IT CAN GO THAT MUCH FURTHER. BECAUSE IN

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1 THE CASE THAT WE HAD, THERE WAS REASON WHICH  
2 DOESN'T, YOU KNOW, PERTAIN TO THE MATTER BEFORE  
3 US, BUT IT DOES INFLUENCE IT IN TERMS OF THE WAY  
4 THAT WE VIEW THESE DOCUMENTS, IT WOULD ARRIVE AT  
5 THAT.  
6 SO YOU PROBABLY SHOULDN'T ANSWER THE  
7 QUESTION BECAUSE -- YOU KNOW, NOT BECAUSE YOU'RE  
8 NOT CAPABLE OF IT, BUT IT'S PROBABLY ONE THAT YOU  
9 CAN ANSWER.  
10 MR. HORWEDEL: YEAH, MR. CHAIR, I WOULD  
11 AGREE THAT PART OF THAT DEFINITELY IS REALLY FOR  
12 THE CITY COUNCIL TO ANSWER THAT.  
13 I THINK PART OF THE ANSWER, THOUGH,  
14 WILL BE THAT THE ORIGINAL EIR WAS REALLY DEALING  
15 WITH THE FILLING OF THAT LANDFILL, AND THAT THERE  
16 WAS KIND OF A FRONT-END AND A BACK-END OF HOW  
17 THAT LANDFILL WOULD BE FILLED. AND THAT THE  
18 EMPHASIS IN THE EIR WAS NOT NECESSARILY ON A  
19 GIVEN TONS PER DAY VERSUS THE REAL ISSUES, IN THE  
20 CITY'S MIND, WERE HOW DO YOU DEAL WITH A LANDFILL  
21 THAT HAS RESIDENTIAL INTERFACES ON IT, AND THAT  
22 THE COMMUNITY CONCERNS ARE REALLY GETTING THE  
23 LANDFILL CLOSED SOONER RATHER THAN LATER, NOT  
24 PROLONGING THE LIFE OF THE LANDFILL.  
25 THAT IN ADDRESSING THE EIR WE WENT

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1 AND LOOKED AT WHAT ARE THE ISSUES THAT WE HAVE OF  
2 DIRT AND DEBRIS ON THE STREETS, OR WHETHER IT'S  
3 NOISE, OR CLANKING GARBAGE TRUCKS, THOSE TYPES OF  
4 THINGS, THE AMOUNT OF TRAFFIC. AND SO THE EIR  
5 DEALS WITH THE BEST INFORMATION THAT WAS KNOWN AT  
6 THAT TIME ABOUT WHO THAT WOULD OPERATE.

7 AND WHAT I THINK THE CITY ATTORNEY  
8 WOULD TELL YOU IS, IS THAT WE'RE ESSENTIALLY  
9 FILLING IN SOME MORE KNOWN INFORMATION TODAY.  
10 WE'RE MATCHING IT AGAINST WHAT THAT BASELINE WAS  
11 IN 1988, OF WHAT THE DIFFERENT SIGNIFICANT  
12 IMPACTS WERE. WE'RE STILL STAYING WITHIN THOSE  
13 CONFINES. WE'RE JUST PUTTING ADDITIONAL  
14 INFORMATION RELATED TO THAT AND ATTACHING IT TO  
15 THE EIR. AND I THINK THAT WOULD BE HER ANSWER.

16 MS. TOBIAS: I WONDER IF -- DID YOU  
17 DISCUSS -- I'M TRYING NOT -- TO THINK OF A WAY TO  
18 NOT MAKE THIS SOUND CONTENTIOUS-SOUNDING. I  
19 WONDER IF THE CITY ATTORNEY IS CLEAR THAT WHAT  
20 NEEDS TO BE DONE HERE IS NOT SO MUCH THAT THE  
21 CITY NEEDS TO BE THE LEAD AGENCY FOR A LAND USE  
22 PERMIT, BUT THAT THE CITY NEEDS TO PREPARE AN  
23 ENVIRONMENTAL DOCUMENT ON BEHALF OF THE LEA WHICH  
24 ADDRESSES THE IMPACTS WITH RESPECT TO THE SOLID  
25 WASTE FACILITY PERMITS. THAT'S A MUCH SMALLER

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1 WORLD IN THE WHOLE SCHEME OF THINGS. AND IS THAT  
2 SOMETHING THAT THEY TALKED ABOUT AND WORKED WITH?

3 MR. HORWEDEL: MR. CHAIR, I DON'T KNOW  
4 SPECIFICALLY THE DIALOGUE THAT WENT BETWEEN THE  
5 DIRECTOR OF PLANNING AND THE CITY COUNCIL.

6 THOUGH THE DIRECTOR OF PLANNING IS THE LEA, IS  
7 THAT THE LEA IS A PART OF THE PLANNING, BUILDING  
8 AND CODE ENFORCEMENT DEPARTMENT, WE'RE ALL UNDER  
9 THE SAME UMBRELLA. SO THEY REALLY ARE -- YOU  
10 KNOW, THEY'RE NOT A CLIENT, THEY'RE FAMILY.

11 MEMBER JONES: MR. CHAIRMAN?

12 CHAIRMAN EATON: MR. JONES.

13 MEMBER JONES: I THINK ONE OF THE THINGS  
14 THAT YOU SAID IS WHEN YOU GUYS -- WHEN YOU, AS  
15 THE LEAD AGENCY, LOOKED AT THIS WHOLE PROJECT TO  
16 SEE IF IT WAS -- IF THERE WAS A SIGNIFICANT  
17 CHANGE, YOU DETERMINED THAT THERE WAS NOT A  
18 SIGNIFICANT CHANGE FOR WHAT YOU HAD PLANNED FOR.

19 MR. HORWEDEL: THAT'S CORRECT, MR. CHAIR,  
20 IS THAT WE LOOKED AT THIS -- THERE WAS --  
21 ACTUALLY FROM SEVERAL OF THE THINGS, NOT --  
22 INCLUDING ENVIRONMENTAL, THERE WAS NO SIGNIFICANT  
23 CHANGES, AS WELL AS THE PERMITTING -- THAT'S  
24 ACTUALLY THE OTHER HALF OF THE WORLD THAT I'M  
25 RESPONSIBLE FOR -- WHICH IS THE SITE AND

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1 ARCHITECTURAL PERMITS OR CONDITIONAL USE PERMITS  
2 THAT WOULD APPLY TO THIS LANDFILL, AND FOUND THAT  
3 THERE WAS NO SIGNIFICANT CHANGE.  
4 MEMBER JONES: I THINK IT'S INTERESTING  
5 BECAUSE -- OUR LEGAL FOLKS ARE TALKING RIGHT NOW  
6 -- BUT, THE FACT THAT YOU DIDN'T FIND A  
7 SIGNIFICANT CHANGE, AND YOU DID THE ADDENDUM  
8 BASED ON -- AND I KIND OF UNDERSTAND HOW WHEN YOU  
9 LOOK AT A LANDFILL THAT'S THAT BIG AND IT'S ONLY  
10 BEEN THERE SINCE 1921, PEOPLE DO EXPECT AN AWFUL  
11 LOT OF DIFFERENT ACTIVITY. BUT YOU AS THE CITY,  
12 AS A CEQA PERSON DIDN'T SEE A SIGNIFICANT CHANGE  
13 SO YOU PUT IN AN ADDENDUM. I DON'T HAVE A  
14 PROBLEM WITH THAT.  
15 I'M WONDERING WHAT THE PEOPLE THAT  
16 ARE GOING TO LOOK AT THE ARCATA PERMIT, OR THE  
17 BOARD THAT SITS HERE FIVE YEARS FROM NOW, WHAT  
18 THEIR ARGUMENTS ARE GOING TO BE. BECAUSE WHAT  
19 WE'RE ARGUING IS A 1991 PERMIT HERE. AND A 1988  
20 CEQA DOCUMENT. SO IN FIVE YEARS THE CHANGES THAT  
21 HAPPEN IN ARCATA, THAT WE VIEWED AS NOT  
22 SIGNIFICANT, ARE GOING TO BE UP FOR THE SAME  
23 EXACT TYPE OF RETROSPECTIVE SCRUTINY. AND IT  
24 JUST — IT'S PRETTY AMAZING.  
25 CHAIRMAN EATON: IF THERE'S NO OTHER

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1 QUESTIONS, MR. LORD OR MR. WYSE, DO YOU CARE TO  
2 MAKE A PRESENTATION? OR MR. MATTIEONI, AS IT  
3 RELATES TO THE CEQA, OR ARE WE ON A DIFFERENT --  
4 MR. MATTIEONI: WE'RE ALMOST ON A  
5 DIFFERENT ITEM, MR. CHAIR, I JUST WANTED TO -- 6 CHAIRMAN  
EATON: I'M STILL WATCHING YOU  
7 HERE, YOU KNOW, WE'RE STILL NOT SURE WE'VE  
8 FINISHED THE OTHER ONE.  
9 MR. MATTIEONI: ALL RIGHT. THANK YOU.  
10 JUST WANTED TO MAKE TWO POINTS ON THE CEQA ISSUE.  
11 WHEN YOU LOOK AT THE 1991 FACILITIES  
12 PERMIT PART OF THE FINDINGS STATE THAT: "THE  
13 AGENCIES AND DOCUMENTS WHICH CONDITION OPERATION  
14 AND USE OF THE FACILITY ARE (1) THE FINAL  
15 ENVIRONMENTAL IMPACT REPORT, DECEMBER, 1988."  
16 WHICH EVERYONE'S BEEN DISCUSSING. AND (H) ALSO  
17 IS WORTH NOTING: "CITY OF SAN JOSE PLANNING  
18 DEPARTMENT ADDENDUM TO THE 1988 ENVIRONMENTAL  
19 IMPACT REPORT ISSUED OCTOBER 17, 1991."  
20 SO IT'S NOT SIMPLY HOW SOMEONE MIGHT  
21 INTERPRET TODAY THE 1988 EIR. THIS IS SAYING  
22 THAT THE OPERATION SHALL BE CONSISTENT WITH BOTH  
23 OF THESE. IT WAS CHANGED, IT WAS NOTICED, IT WAS  
24 CHANGED IN TERMS OF THE SPECIFICITY IN THE 1991  
25 ADDENDUM. IT WAS NOTICED, IT WAS CONCURRED IN BY



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1 THIS BOARD. EVERYONE'S BEEN OPERATING IN THAT  
2 REGARD.  
3 AND AS TO THE PUBLIC, WHICH IS  
4 CERTAINLY OF CONCERN, AND ITS OPPORTUNITY TO  
5 REVIEW THIS OPERATION, WE'VE OVERLOOKED -- AND  
6 IT'S IN THE MATERIALS THAT ARE AN ATTACHMENT TO  
7 MR. HORWEDEL'S LETTER -- BUT THERE WAS A 1995  
8 SUPPLEMENTAL EIR. WHY WAS THERE ONE? BECAUSE  
9 THERE WAS A PROPOSAL FOR A GREEN WASTE OPERATION  
10 AT THIS SITE WHICH WENT THROUGH THE PUBLIC  
11 HEARING PROCESS, WAS APPROVED, DID NOT IN FACT  
12 GET IMPLEMENTED, BY CHOICE OF -- THE OPERATORS  
13 DECIDED NOT TO DO THAT. BUT THE PUBLIC WAS  
14 REINVOLVED AND THE 1991 IS PART OF THE APPENDIX  
15 OF THAT DOCUMENT.  
16 50 IT ISN'T THAT THE PUBLIC HAS NEVER  
17 LOOKED AT THIS SINCE 1988. THEY HAVE BEEN RE-  
18 NOTICED -- IN A DIFFERENT CONTEXT, I'LL GRANT YOU  
19 THAT. BUT THE HAVE BEEN RE-NOTICED. THEY  
20 CERTAINLY PARTICIPATED IN THOSE HEARINGS, AND IT  
21 SENT TO THE CITY COUNCIL.  
22 AND NOW WE COME BEFORE YOU FOR THE  
23 FACILITIES PERMIT CONCURRENCE IN 1998, AND I NOTE  
24 THAT -- AT LEAST ON THREE OTHER PERMITS THAT YOU  
25 HAD REVIEWED TODAY -- I'M LOOKING AT ITEM 12, THE

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1 ONOFRE LANDFILL, MAXIMUM PERMITTED TONNAGE 50  
2 TONS PER DAY -- DOESN'T SAY ANYTHING ABOUT PEAKS,  
3 IT DOESN'T SAY ANYTHING ABOUT AVERAGE.  
4 IT DIDN'T SAY THAT DISTINCTION IN  
5 1991, IT GAVE US THE MAXIMUM PERMITTED TONS PER  
6 DAY. WHICH WHEN YOU LOOK AT AGAIN THE  
7 SPECIFICITY OF THE PARAGRAPH THAT THAT'S STATED  
8 IN, ALLOWS SOMEONE TO GO TO THAT EACH AND EVERY  
9 DAY. SO THAT WAS MY FINAL POINT ON THE CEQA,  
10 TRYING TO PUT IT IN CONTEXT.  
11 THE OTHER POINT THAT I WOULD MAKE I  
12 HOPE WOULD BE LESS TIME-CONSUMING, BECAUSE WE  
13 HAVE --  
14 CHAIRMAN EATON: LET ME ASK IF THERE'S  
15 ANY QUESTIONS THAT RELATE TO CEQA THAT WE WANT TO  
16 ASK OF THIS PARTICULAR WITNESS BEFORE HE MOVES  
17 ON. THANK YOU.  
18 MR. MATTIEONI: THANK YOU.  
19 NOT I, BUT OTHERS ON OUR BEHALF HAVE  
20 BEEN TALKING TO STAFF, AND CONTINUING TO LOOK AT  
21 THIS CLOSURE/POST-CLOSURE ISSUE, AND THE  
22 APPROPRIATE FUNDING TO BRING IT TO AN ACCEPTABLE  
23 LEVEL.  
24 AND WE'RE PREPARED, BASED ON THOSE  
25 DISCUSSIONS AND WHAT WE'VE HEARD AS AN ACCEPTABLE

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1 NUMBER, OF SET OF NUMBERS, TO BY ADDENDUM --

2 MAYBE I SHOULDN'T USE THAT WORD -- AMENDMENT TO

3 THE APPLICATION --

4 CHAIRMAN EATON: NOT TODAY, I DON'T THINK

5 SO.

6 MR. MATTIEONI: NO. WHATEVER

7 DOCUMENTATION YOUR STAFF TELLS US IS APPROPRIATE.

8 BUT WE CAN COMMIT IN WRITING TODAY, TOMORROW,

9 CERTAINLY WITHIN YOUR TIME LIMITS HERE, TO, FOR

10 THE POST-CLOSURE MOVE THE NUMBERS FROM

11 APPROXIMATELY \$725,000 TO \$3.3 MILLION FOR POST- 12 CLOSURE. AND I

BELIEVE THE NUMBERS CURRENTLY FOR

13 THE CLOSURE PLAN ARE \$3.3 MILLION, TO MOVE THAT

14 TO \$5.8 MILLION WHICH, AS I UNDERSTAND IT, IS

15 ACCEPTABLE LEVELS TO MEET THE REQUIREMENTS.

16 AND SO I DIDN'T WANT TO ARGUE THAT,

17 AND THAT WE WANTED TO GO BACK IN TIME, I WANTED

18 TO ACKNOWLEDGE WE WILL COME CURRENT WITH WHAT'S

19 APPROPRIATE AND NOT ARGUE HOW THE WATER BOARD

20 DELAYED OR WHEN WE FILED.

21 CHAIRMAN EATON: LET ME JUST ASK A

22 QUESTION. IF THAT WERE TO BE THE CASE AS IT

23 RELATES TO THE CLOSURE/POST-CLOSURE, IS THAT A

24 PROCESS OR A PROPOSAL THAT WE COULD ACCEPT TODAY,

25 OR DO WE HAVE TO GO BACK THROUGH A DIFFERENT

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1 PROCESS AND ACCEPT IT AS PART OF THE PERMIT

2 THAT'S BEFORE US, PROCEDURALLY? DO WE KNOW, OR

3 DOES IT EVEN MAKE A DIFFERENCE?

4 MR. CHANDLER: WELL, I GUESS I'LL ASK

5 COUNSEL IF ON PROCEDURALLY THERE'S --

6 CHAIRMAN EATON: I MEAN, A CERTAIN

7 QUESTION --

8 (THE PARTIES SIMULTANEOUSLY SPEAK.)

9 CHAIRMAN EATON: -- SOMETHING THAT'S

10 MOVING FROM --

11 MR. CHANDLER: I'M A LITTLE UNCOMFORTABLE

12 HEARING RIGHT IN THE MOMENT --

13 CHAIRMAN EATON: RIGHT --

14 (THE PARTIES SIMULTANEOUSLY SPEAK.)

15 MR. CHANDLER: -- ORDER OF MAGNITUDE

16 DIFFERENTIAL WITHOUT HAVING SCOT WALKER OR DON

17 DIER TO HAVE -- PERHAPS EVEN UNDERSTOOD HOW THOSE

18 NUMBERS ARE GOING TO BE APPLIED IN THE DOCUMENT.

19 AND I ASSUME, AGAIN HEARING SCOTT'S EARLIER

20 COMMENTS, HE WOULD THEN BE MAKING A

21 RECOMMENDATION TO THE LEA AND THE WATER BOARD

22 AROUND HOW WE VIEW THOSE NEW NUMBERS.

23 BUT GO AHEAD, DON.

24 MR. DIER: I'LL LET SCOTT ADDRESS THE

25 PROPOSAL SPECIFICS. BUT I WOULD LIKE TO LET THE

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1 BOARD KNOW THAT RIGHT NOW THE RECORD INDICATES  
2 THAT THE PRELIMINARY PLAN HAS NOT BEEN APPROVED,  
3 IT'S BEEN — WHAT'S THE TERM, SCOTT?  
4 MR. WALKER: DEEMED COMPLETE?  
5 MR. DIER: PROJECTED?  
6 MR. WALKER: DEEMED INCOMPLETE.  
7 MR. DIER: DEEMED INCOMPLETE. AND ON  
8 THAT BASIS WE WOULD STILL BE RECOMMENDING  
9 OBJECTION UNTIL WE HAVE A COMPLETE PRELIMINARY  
10 PLAN.  
11 BUT I FIND THE COMMENTS ENCOURAGING,  
12 AND IF WE WERE ABLE TO FIND SOME TIME TO WORK  
13 THIS OUT THEN THAT WOULD BE ABLE TO CHANGE  
14 STAFF'S RECOMMENDATION I THINK.  
15 MEMBER FRAZEE: I WAS JUST GOING TO  
16 SUGGEST -- I MAY BE OUT OF LINE IN THIS BECAUSE I  
17 WOULD NOT BE A PARTICIPANT IN IT -- BUT, I WAS  
18 WONDERING ABOUT THE APPLICANT'S WILLINGNESS TO  
19 WAIVE TIME IN ORDER TO PUT THE DOCUMENTS IN ORDER  
20 THAT WOULD REFLECT THE ADDITIONAL CLOSURE AND  
21 POST-CLOSURE FUND INCREASES?  
22 CHAIRMAN EATON: SURE. AND MAYBE THIS IS  
23 AN IDEAL TIME, IF -- WE'VE BEEN ALMOST TWO HOURS,  
24 IF WE COULD GIVE THE COURT REPORTER A BREAK. AND  
25 IT'S 3:20, LET'S SAY 3:30, AND THAT'LL GIVE THE

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1 APPLICANT SOME TIME TO CONFER, AS WELL AS PERHAPS  
2 OTHERS. THANK YOU.

3 (OFF THE RECORD; BRIEF RECESS.)

4 CHAIRMAN EATON: WELCOME BACK EVERYONE.

5 GENTLEMEN, NICE TO SEE YOU AGAIN.

6 MR. MATTIEONI: YES, MR. CHAIR, THANK

7 YOU. NORM MATTIEONI AGAIN.

8 AND WITH ME IS JIM LORD, WHO HAD

9 TURNED IN A SLIP, AND HE'S THE GENERAL MANAGER OF

10 THE LANDFILL, AND WANTED TO RESPOND AND FILE

11 SOMETHING FOR THE RECORD, IN TERMS OF THE POST-

12 CLOSURE/CLOSURE NUMBERS THAT I SPOKE TO YOU AS A

13 DEFINITE COMMITMENT. AND THAT WE DID WANT TO

14 MOVE FORWARD. BUT LET ME HAVE HIM SPEAK IF I

15 COULD.

16 CHAIRMAN EATON: MR. LORD.

17 MR. LORD: AS NORM SAID, I'M JIM LORD,

18 I'M THE GENERAL MANAGER OF GUADALUPE LANDFILL.

19 WANT TO SPEAK TO THE CLOSURE AND POST-CLOSURE

20 COST ESTIMATES.

21 AND FIRST, THOUGH, I WANT TO SPEAK TO

22 -- WE STARTED ON OUR CLOSURE AND POST-CLOSURE

23 PLAN IN '93, WE AMENDED IT TWICE IN 1995. IT HAS

24 BEEN SUBMITTED TO THE LEA AND THE REGIONAL WATER

25 QUALITY CONTROL BOARD FOR AT LEAST FIVE YEARS.

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1 WE EMBARKED ON OUR PROCESS OF GETTING OUR NEW  
2 FACILITY -- OR, FIVE-YEAR REVIEW OF OUR FACILITY  
3 PERMIT IN 1996. NOW WE'RE IN 1999. AS THE  
4 APPLICANT, WE DON'T FEEL THAT IT'S APPROPRIATE TO  
5 EXTEND THIS ANYMORE, WE WOULD LIKE IT TO REACH  
6 CLOSURE TODAY.  
7 NOW, REGARDING OUR CLOSURE AND POST-  
8 CLOSURE COST ESTIMATES, THEY HAVE BEEN OUT THERE.  
9 WE UNDERSTAND THAT THE INTEGRATED WASTE  
10 MANAGEMENT BOARD STAFF HAS NOT REVIEWED THEM AND  
11 DID NOT SEE THEM TILL, YOU KNOW, LESS THAN A  
12 MONTH AGO. HOWEVER, THE REGIONAL BOARD HAS HAD  
13 THEM FOR IN EXCESS OF FIVE YEARS.  
14 THEY RECENTLY WROTE A LETTER, I  
15 BELIEVE IT CAME IN YESTERDAY, AND IN IT THEY  
16 BASICALLY SAID WE DID A CURSORY REVIEW OF THE  
17 CLOSURE AND POST-CLOSURE DOCUMENTS AND AGREE WITH  
18 THE INTEGRATED WASTE MANAGEMENT BOARD THAT THE  
19 FUNDS MAY BE INADEQUATE.  
20 WELL, IN FACT, NO ONE HAS LOOKED AT  
21 THE DETAILED CLOSURE AND POST-CLOSURE COST  
22 ESTIMATES. WE FELT WE HAVE SOME VERY REASONABLE  
23 REASONS WHY OUR NUMBERS ARE LOWER. WE HAVE A  
24 FAIRLY LENGTHY CLOSURE PERIOD, WE DON'T HAVE ANY  
25 SIGNIFICANT LEACHATE COSTS, WE DON'T HAVE ANY

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1 SIGNIFICANT GAS COST. BUT, YOU KNOW, WE DON'T  
2 WANT TO HANG UP THE BOARD ON THIS PARTICULAR  
3 ISSUE.  
4 WHAT WE'RE WANTING TO DO AT THIS TIME  
5 IS SUBMIT AN ADDENDUM TO BOTH OUR CLOSURE AND  
6 POST-CLOSURE COST ESTIMATES TO A LEVEL THAT STAFF  
7 HAS TOLD US IS ACCEPTABLE. SO WE'RE BASICALLY  
8 AMENDING OUR COST UP TO THOSE LEVELS. AND WE  
9 CERTAINLY ARE WILLING TO WORK WITH STAFF TO  
10 DETAIL OUT ALL THE ITEMS AND COST ITEMS AND GO  
11 THROUGH IT.  
12 BUT, TO GO THROUGH THE WHOLE CLOSURE  
13 AND POST-CLOSURE COST ESTIMATE -- AND REALLY I  
14 THINK IT'S ONLY THE POST-CLOSURE COST ESTIMATE  
15 THAT'S OF CONCERN TO THE BOARD IN DETERMINING THE  
16 ADEQUACY OF THE PERMIT, YOU KNOW, WE THINK IS  
17 GOING TO TAKE QUITE A WHILE BECAUSE WE HAVE A LOT  
18 OF ISSUES TO GO THROUGH. AND WE ALSO HAVE TO GET  
19 THE REGIONAL BOARD INVOLVED, AND THE REGIONAL  
20 BOARD HAS NO STAFF AVAILABLE TO DO THIS TYPE OF  
21 WORK. SO WE THINK IT'S GOING TO BE A PROTRACTED  
22 EFFORT TO TRY TO GET THE NUMBERS UPDATED.  
23 SO AT THIS TIME I'D LIKE TO SUBMIT AN  
24 ADDENDUM THAT WILL RAISE THE POST-CLOSURE COST  
25 ESTIMATE AND THE CLOSURE COST ESTIMATE UP TO



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1 LEVELS THAT ARE -- HAVE BEEN DEEMED WITHIN THE  
2 ACCEPTABLE RANGE BY STAFF. THANK YOU.  
3 CHAIRMAN EATON: LET ME ASK YOU THIS.  
4 FIRST OFF, I CAN ASSURE YOU THAT IT WILL NEVER GO  
5 ON FOR A LONG PERIOD OF TIME. BUT I THINK YOUR  
6 COMMENT ABOUT THE FACT THAT NO ONE'S ADEQUATELY  
7 REVIEWED IT SPEAKS REALLY TO THE POINT THAT WE'RE  
8 GETTING AT. AND I UNDERSTAND YOUR FRUSTRATION IN  
9 THIS REGARD.  
10 BUT IF YOUR CONCERN IS WAITING  
11 BECAUSE YOU THINK IT'S GOING TO TAKE MONTHS AND  
12 MONTHS, THAT'S NOT THE WAY AT LEAST, YOU KNOW,  
13 THIS BOARD, AT LEAST AS LONG AS I'VE BEEN ON IT,  
14 HAS EVER OPERATED.  
15 BUT I DO BELIEVE THAT YOUR POINT  
16 ABOUT THE FACT THAT NO ONE HAS BEEN ABLE TO  
17 REVIEW IT DOES DRAW SOME CONCERN ABOUT THE FACT  
18 THAT THE PROCESS THAT'S BEING SUGGESTED -- BUT I  
19 WOULD LOOK TO MY FELLOW BOARD MEMBERS, AS WELL AS  
20 COUNSEL AND STAFF, AS TO WHAT PROPER PROCEDURE  
21 NEEDS TO BE IN PLACE IF WE ARE GOING TO GO DOWN  
22 THIS ROAD.  
23 BECAUSE THE LAST TIME WE DID, AS YOU  
24 SAY, AN ADDENDUM IT WAS NOT EXACTLY ONE THING  
25 THAT I WAS COMFORTABLE WITH IN THE END, IT WOULD

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1 HAVE JUST BEEN EASIER FOR US JUST TO -- TO JUST  
2 EITHER DENY THE PERMIT OR JUST HAVE THEM GRANT AN  
3 EXTENSION WITHOUT THE ADDENDUM, BECAUSE WE FOUGHT  
4 OVER THE ADDENDUM FOR ANOTHER SIX OR EIGHT WEEKS.  
5 SO, I MEAN, AGAIN, YOU KNOW, I JUST  
6 WANT TO LET YOU KNOW IT'S NOTHING THAT PERTAINS  
7 TO YOUR APPLICATION, BUT IT'S ONE WHERE THE BOARD  
8 HAS HAD SOME PRIOR HISTORY WHICH HAS NOT BEEN  
9 VERY TASTEFUL. AND I JUST LOOK TO THE STAFF OR  
10 OTHER BOARD MEMBERS AS TO THEIR VIEWS.  
11 MR. LORD: I HOPE THAT, YOU KNOW, THIS  
12 ADDENDUM IS NO WAY CONFUSED WITH A -- THE  
13 SUPPLEMENTAL -- OR, AN EIR ADDENDUM, THIS IS JUST  
14 SIMPLY A CORRECTION TO A NUMBER IN THE CLOSURE  
15 AND POST-CLOSURE PLAN.  
16 AND IT'S MY UNDERSTANDING THAT, YOU  
17 KNOW, STAFF IS NOT REALLY LIKING THIS PROCESS  
18 VERY MUCH BECAUSE THEY FEEL THAT THEY HAVE TO  
19 HAVE REGIONAL WATER QUALITY CONTROL BOARD  
20 CONCURRENCE ON THESE NUMBERS PRIOR TO THEM BEING  
21 ABLE TO GO FORWARD. AND THAT SPEAKS TO THE DELAY  
22 THAT I MENTIONED.  
23 CHAIRMAN EATON: COMMENTS?  
24 MEMBER JONES: MR. CHAIRMAN, I DON'T KNOW  
25 WHAT THE PROPER PROCEDURE IS, I'M CONFUSED QUITE

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1 REGULARLY WHEN IT COMES TO PROPER PROCEDURE.  
2 BUT I AM CONVINCED THAT THIS  
3 APPLICANT -- THERE WERE THREE ISSUES THAT CAME  
4 FORWARD WHEN, IN MY BRIEFING, THAT STAFF SAID  
5 WERE ALL REASONS NOT TO CONCUR.  
6 AND I WENT OUT AND GOT THE PERMIT AND  
7 GOT OTHER THINGS, AND NOW IT'S DOWN TO ONE ISSUE  
8 THAT THIS APPLICANT WAS NOTIFIED ABOUT YESTERDAY  
9 -- YESTERDAY, ON A CLOSURE FUND -- OR, ON A  
10 DOCUMENT THAT GOT PUT TOGETHER FIVE YEARS AGO AND  
11 WAS NOTIFIED YESTERDAY THAT IT WASN'T ADEQUATE  
12 DOES NOT STRIKE ME AS GOOD GOVERNMENT. IT  
13 STRIKES ME AS PETTY, AT BEST.  
14 AND IF WE'VE GOT A COMMITMENT FROM  
15 THE OPERATORS TO RAISE THEIR FUNDING \$6 MILLION -- 16 - THEY WERE  
NOTIFIED YESTERDAY. I'D DARE ANYBODY  
17 TO BRING A PUBLIC OPERATOR IN HERE THAT DOESN'T  
18 HAVE FUNDING ACCURATELY AND TELL THEM THAT  
19 THEY'RE GOING TO INCREASE BY \$6 MILLION THE  
20 AMOUNT OF FUNDING.  
21 THIS IS -- WE'RE PLAYING WITH A '91  
22 PERMIT, WE'RE PLAYING WITH SENTENCES TAKEN OUT OF  
23 PARAGRAPHS, WE'RE PLAYING WITH SITING ELEMENT  
24 THAT TAKE ONE LINE OUT AND LEAVE TWO LINES  
25 UNWRITTEN. AND I THINK WE OWE IT TO OURSELVES TO

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1 CLEAN THIS MESS UP.

2 I MEAN, THIS IS ONE THAT -- I DON'T

3 CARE HOW THE CRAFTERS OF WORDS CRAFT THIS THING,

4 BUT WE OWE IT TO OURSELVES AND TO OUR PUBLIC TO

5 RESOLVE THIS ISSUE. AND THIS THING JUST MAKES ME

6 NUTS, THAT SOMEBODY WOULD TURN IN A CLOSURE PLAN

7 FIVE YEARS AGO AND FIND OUT YESTERDAY THAT IT'S

8 NOT ADEQUATE, AND THAT'S A BASIS FOR NOT GIVING

9 THEM A PERMIT THAT ACTUALLY RESTRICTS WHAT

10 THEY'RE ALREADY ALLOWED TO DO.

11 I MEAN, IF I WAS YOU I'D STAY WITH

12 THE '91 PERMIT. I MEAN, THINK ABOUT IT, WHAT ARE

13 WE GOING TO DO TO YOU? YOU KNOW? IT'S EASIER

14 FOR YOU.

15 BUT IT -- MAN, I MEAN, WE'VE GOT TO

16 RESOLVE THIS THING RIGHT.

17 MR. CHANDLER: WELL, IN OUR EFFORTS TO

18 RESOLVE IT, MR. JONES, AS YOU KNOW, WE DO NOT

19 APPROVE THESE CLOSURE PLANS, WE PROVIDE COMMENTS

20 TO THE WATER BOARD.

21 IS THERE ANY DUE DILIGENCE EXPECTED

22 ON THE PART OF THE APPLICANT TO DETERMINE WHERE

23 THEY STAND IN THAT REVIEW PROCESS, IN YOUR

24 OPINION?

25 MEMBER JONES: I THINK IF I SENT IN A

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1 PLAN FIVE YEARS AGO AND DIDN'T HEAR FROM ANYBODY  
2 I'D ASSUME IT WAS ACCURATE.  
3 MR. CHANDLER: YOU KNOW THAT PLAN'S GOING  
4 TO BE AN INSTRUMENTAL PIECE OF WHAT COMES BEFORE  
5 THIS BOARD FOR A PERMIT CONSIDERATION. WE'RE NOT  
6 TALKING ABOUT A FIVE-YEAR AGO DECISION, WE'RE  
7 TALKING ABOUT A PERMIT DECISION TODAY IN FRONT OF  
8 THIS BOARD, WHICH HAS WITH IT A CLOSURE PLAN  
9 DOCUMENT.  
10 I'M JUST SUGGESTING THAT IT MIGHT BE  
11 ALSO PART OF THE APPLICANT'S RESPONSIBILITY TO  
12 SEE, WITH THE AGENCIES THAT REVIEW THAT PERMIT,  
13 WHERE THEY STAND IN THAT REVIEW.  
14 MEMBER JONES: MR. CHAIRMAN, WITH ALL DUE  
15 RESPECT, THEY SENT IN A DOCUMENT FIVE YEARS AGO  
16 AND DIDN'T HEAR ANYTHING. IF YOU DID THAT WOULD  
17 YOU ASSUME IT WAS ACCEPTED? I MEAN, I SURE  
18 WOULD. I MAY FOLLOW UP, BUT I WOULD ASSUME IT.  
19 INSTEAD WE GET A LETTER DATED  
20 YESTERDAY THAT SAYS WE TOOK A CURSORY REVIEW OF  
21 THIS THING? A CURSORY REVIEW. WHAT THAT MEANS  
22 IS THEY KIND OF THUMBED THROUGH THE PAGES, NOBODY  
23 DID THE MATH, NOBODY KNOWS IF THEIR NUMBERS ARE  
24 RIGHT OR WRONG. I MEAN, YOU KNOW, THIS IS --  
25 THIS IS PRETTY AMAZING STUFF. A CURSORY REVIEW

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1 OF THE PLANS SHOW THAT IT DOESN'T MEET THE  
2 STATEWIDE AVERAGE. OKAY? THAT'S FAIR.  
3 NOW THEY'RE WILLING TO PUT THE NUMBER  
4 UP TO AN AVERAGE THAT FALLS WITH IN THE STATEWIDE  
5 AVERAGE. AND DEVELOP THE PLAN THAT COULD TAKE  
6 MONTHS, AND MONTHS, AND MONTHS, AND MONTHS. AND  
7 IF YOU GO OFF OF PAST HISTORY COULD TAKE FIVE  
8 YEARS TO BE FINAL.

9 I GUESS WE COULD ASK THEM TO DO THAT,  
10 YOU KNOW? BUT IT DOESN'T SEEM FAIR. IT DOESN'T  
11 SEEM LIKE WE'RE DOING OUR JOB.

12 CHAIRMAN EATON: COMMENTS.

13 MEMBER ROBERTI: DID THE APPLICANT PRESS  
14 THE LOCAL WATER BOARD, I GUESS, FOR AN ANSWER?  
15 MR. LORD: NO, I HAD NO REQUIREMENT WITH  
16 THEM TO REVIEW IT. I SUBMITTED IT AS I WAS  
17 REQUIRED TO DO. I'M VERY LUCKY TO EVEN GET, YOU  
18 KNOW, APPROVAL OF MOVING INTO A MODULE FROM THEM.

19 MEMBER ROBERTI: I UNDERSTAND. AND YOU  
20 SUBMITTED IT FIVE YEARS AGO. BUT DID YOU TAKE  
21 ANY ACTION BETWEEN THAT TIME WHEN YOU SUBMITTED  
22 IT AND WHEN YOU RECEIVED AN ANSWER YESTERDAY OR  
23 WHATEVER IT WAS TO GET ANY RESPONSE?  
24 BECAUSE YOU KNEW YOU WERE COMING FOR  
25 SOMETHING ELSE.

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1 MR. LORD: I DID NOT TALK TO THE WATER  
2 BOARD IN RELATIONSHIP TO THIS PERMIT. AS A  
3 MATTER OF FACT, I BELIEVE THE STATUTE SAYS THAT  
4 THEY HAVE 30 DAYS TO COMMENT ON IT, OTHERWISE  
5 IT'S DEEMED APPROVED. AND THAT'S MY  
6 UNDERSTANDING OF WHAT THE STATUTE SAYS.

7 MEMBER ROBERTI: IS THAT THE CASE, IS IT  
8 DEEMED APPROVED?

9 MR. CHANDLER: AFTER IT'S ACCEPTED AS  
10 COMPLETE. AT THIS TIME IT'S DEEMED INCOMPLETE,  
11 IT HAS NOT BEEN ACCEPTED AS COMPLETE AS I  
12 UNDERSTAND IT.

13 MEMBER ROBERTI: SO THERE'S TWO STEPS.  
14 YOU HAVE TO GO -- WELL, YOU HAVE TO GET A  
15 STATEMENT OF COMPLETION, AND THEN YOU GET  
16 ACCEPTANCE.

17 AND I SHARE YOUR CONCERN, FIVE YEARS  
18 IS A LONG TIME. BUT THERE SHOULD HAVE BEEN --  
19 YOU KNEW YOU WERE COMING -- WELL, I ASSUME YOU  
20 KNEW YOU WERE COMING BEFORE US, AND MAYBE YOU  
21 SHOULD HAVE DONE SOMETHING.

22 MR. CHANDLER: I DIDN'T REALIZE THAT THE  
23 BOARD'S -- THE INTEGRATED WASTE MANAGEMENT BOARD  
24 STAFF WAS CONTACTING THE WATER BOARD AND ASKING  
25 FOR THEIR COMMENTS ON IT. SO IF I HAD KNOWN

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1 THAT, YES, I WOULD HAVE BEEN IN CONTACT WITH  
2 THEM.  
3 CHAIRMAN EATON: WELL, LET'S TRY AND GET  
4 OFF OF SQUARE ONE HERE, WE'VE STILL GOT A NUMBER  
5 OF MATTERS TO GO. AND LET ME TRY AND SORT OF  
6 PIECE SOMETHING TOGETHER, BECAUSE THERE SEEMS TO  
7 BE A NUMBER OF AVENUES WE CAN TAKE.  
8 BUT IF WE TAKE THE LOGIC OF MY  
9 COLLEAGUE, MR. JONES, THAT YOU'RE BETTER OFF WITH  
10 THE PERMIT YOU HAVE TODAY THAN THE ONE YOU'RE  
11 ASKING US TO VOTE ON, THEN I GUESS IF YOU ACCEPT  
12 THAT PREMISE, THEN PERHAPS MAYBE IT'S BEST THAT  
13 WE WORK TOGETHER TO CLEAN THE MESS UP. AND THAT  
14 YOU ACTUALLY WAIVE THE REQUIREMENT FOR AN  
15 ADDITIONAL 30 OR 60 DAYS SO THAT WE CAN WORK IT  
16 OUT AND BRING IT UP TO SPEED, AND CROSS THE "T" SO  
17 AND DOT THE "I'S".  
18 AND IF INDEED IT IS TRUE THAT  
19 ACCEPTANCE IS 30 DAYS AFTER ITS BEEN DEEMED  
20 COMPLETE, IF IT'S NOT DEEMED COMPLETE I DON'T  
21 BELIEVE WE CAN ACT, AT LEAST WITH REGARD TO THAT  
22 PARTICULAR MATTER, AND, THEREFORE, CAN'T ACT UP  
23 THE PERMIT. AND SO, THEREFORE, I BELIEVE WE'D BE  
24 IN A POSITION WHERE IT WOULD BE VERY DIFFICULT.  
25 I THINK IF IT IS NOT GOING TO DO YOU



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1 ANY UNDUE HARM OR PUT YOU IN A DIFFICULT  
2 POSITION, SINCE YOU HAVE A PERMIT AT LEAST THAT'S  
3 BETTER THAN WHAT YOU'RE ASKING FOR, I SEE THERE'D  
4 BE VERY LITTLE HARM. THEREFORE, I THINK THAT  
5 WOULD BE A PRUDENT COURSE AND WOULD ASK THAT YOU  
6 CONSIDER THAT AS A WAY TO WORK WITH THE BOARD AND  
7 STAFF TO RESOLVE THESE ISSUES.

8 MR. LORD: I APPRECIATE YOUR PATIENCE  
9 WITH US --

10 MEMBER JONES: OH, ABSOLUTELY. SURE.

11 MR. WALKER: -- THIS AFTERNOON. I'M  
12 SORRY FOR TAKING ALL THIS TIME FROM THESE PEOPLE  
13 BEHIND ME.

14 CHAIRMAN EATON: FIVE YEARS AND A MINUTE  
15 IS NOT A BAD TIME. THAT WAS 30 SECONDS, YOU'VE  
16 GOT 30 MORE.

17 MR. LORD: AT THIS TIME WE DO NOT WISH TO  
18 EXTEND THE TIME FRAME.

19 MEMBER JONES: MR. CHAIRMAN?

20 CHAIRMAN EATON: YES, MR. JONES.

21 MEMBER JONES: I'D LIKE TO INCLUDE THIS  
22 ADDENDUM THAT'S SIGNED BY JIM LORD AND JIM WYSE -  
23 - THE ADDENDUM PRESENTS A REVISED CLOSURE COST  
24 ESTIMATE CONTAINED IN APPENDIX K FOR A  
25 PRELIMINARY CLOSURE/POST-CLOSURE MAINTENANCE PLAN

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1 FOR THE GUADALUPE LANDFILL. AND THEIR '95  
2 ESTIMATE WAS \$3,298,735, THEIR '99 ESTIMATE WAS  
3 \$5.8 MILLION DOLLARS. THIS ADDENDUM UPDATES THE  
4 CLOSURE COST ESTIMATES FROM '95 TO '99. SPECIFIC  
5 CHANGES IN COST ESTIMATES BASES WHICH RESULTED IN  
6 THE ADDENDUM WILL BE FORTHCOMING.  
7 MR. ZUNARDI'S HERE, HE'S ONE OF THE  
8 PRINCIPALS OF GUADALUPE RUBBISH COMPANY.  
9 AND IT WOULD SEEM TO ME THAT WITH  
10 THIS COMMITMENT TAGGED ON TO A PERMIT WOULD GIVE  
11 THIS BOARD AND THE WATER BOARD THE COMFORT THAT  
12 THERE IS A COMMITMENT TO FUND, ONCE BOTH SIDES  
13 FIGURE OUT WHERE THE DEFICIENCIES ARE AND WHERE  
14 IT HAS TO GO.  
15 BUT I THINK THAT IS A PROCESS  
16 REALISTICALLY THAT COULD TAKE SIX MONTHS TO A  
17 YEAR. AND SIX MONTHS TO A YEAR IS A LONG  
18 TIME....  
19 SCOTT, IS THAT A REASONABLE — IS  
20 THAT A REASONABLE TIME FRAME, SIX MONTHS TO A  
21 YEAR TO GET THIS THING WORKED OUT?  
22 MR. WALKER: THAT WOULD BE A REASONABLE  
23 TIME FRAME FOR RE-SUBMITTAL OF THE CLOSURE PLAN,  
24 REVISED -- A FULL REVISED CLOSURE PLAN WOULD  
25 REFLECT THAT I WOULD SAY. IF THAT'S ACCEPTABLE

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1 TO THE WATER BOARD.

2 MEMBER JONES: AND THAT WOULD STILL TAKE  
3 THEM TIME TO ACTUALLY FINALIZE IT. AND BEFORE IT  
4 COULD COME BACK TO US IT COULD BE TIME AFTER  
5 THAT.

6 MR. WALKER: RIGHT. I THINK THAT -- THE  
7 OTHER THING IS I THINK -- WHAT I UNDERSTAND IT,  
8 THEY'RE PROPOSING TO BUMP IT UP AT THE LOW END  
9 INITIALLY, AND THEN LATER WORK OUT THE FINAL  
10 APPROVAL UNDER A LONGER TIME FRAME BETWEEN SIX  
11 MONTHS, AROUND SIX MONTHS.

12 THE OTHER THING TO KEEP IN MIND IS  
13 THAT ONCE THE COST ESTIMATE CHANGES, NOW IT  
14 CHANGES AT THE LOWER END, THEY HAVE APPROXIMATELY  
15 -- THEY HAVE UP TO 60 DAYS TO UPGRADE THEIR  
16 FINANCIAL ASSURANCES MECHANISM --

17 MEMBER JONES: TO FUND.

18 MR. WALKER: -- TO FUND IT TO THAT NEW  
19 COST ESTIMATE.

20 MEMBER JONES: TO FUND. OKAY.

21 MR. WALKER: AND THEN IN THE FUTURE, IF  
22 THE PLAN IS REVISED AND THAT COMES TO AN APPROVAL  
23 OF THE AGENCIES, THEN IF THAT COST ESTIMATE HAS  
24 TO GO UP FURTHER, THEN IT'S GOING TO HAVE TO BE  
25 UPGRADED AGAIN IF THAT'S REQUIRED.

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1 MEMBER JONES: GO THROUGH THE PROCESSES,  
2 SURE.  
3 AND IF THEY DON'T FUND THEN THEY GET  
4 PUT ON A CHRONIC VIOLATOR LIST? OR, WHAT'S THE  
5 REMEDY?  
6 THEY MADE A COMMITMENT TO DO THIS --  
7 MR. WALKER: NO. THERE WOULD BE -- ONE  
8 OF THE FINANCIAL ASSURANCES SECTION MIGHT WANT TO  
9 HELP ME OUT -- BUT I DON'T BELIEVE THEY'D BE  
10 UNDER THE INVENTORY, BUT THEY WOULD BE  
11 POTENTIALLY SUBJECT TO ENFORCEMENT ACTION THROUGH  
12 OUR FINANCIAL ASSURANCES SECTION.

13 MEMBER JONES: WHAT I'M TRYING TO GET AT  
14 IS WE HAVE A MECHANISM, IF THEY DON'T --  
15 MR. WALKER: CORRECT, THERE IS A  
16 MECHANISM --  
17 (THE PARTIES SIMULTANEOUSLY SPEAK.)

18 MEMBER JONES: -- LIVE UP TO THIS IN THE  
19 TIME THAT IT'S DONE WE HAVE A MECHANISM TO TAKE  
20 ACTION.

21 MR. WALKER: THERE IS A FINANCIAL  
22 ASSURANCES MECHANISM IN PLACE THAT COULD BE  
23 REVISED OR UPGRADED.

24 MS. TOBIAS: IF IT DIDN'T MATCH WHAT  
25 THEIR COSTS WERE, AND IF THEY DIDN'T UPDATE IT WE

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1 WOULD PURSUE ENFORCEMENT.

2 MEMBER JONES: RIGHT. WHICH WOULD

3 EFFECTIVELY -- COULD SHUT THEM DOWN. WE COULD

4 GIVE THEM A CEASE AND DESIST -- WE COULD GIVE

5 THEM A CEASE AND DESIST NOT TO OPERATE IF THEY

6 DIDN'T UPHOLD THIS AGREEMENT -- CORRECT? --

7 WHILE IT'S GETTING WORKED ON?

8 MS. THOMAS: HI, DIANA THOMAS WITH

9 FINANCIAL ASSURANCES SECTION.

10 YES, WE DO HAVE ENFORCEMENT

11 REGULATIONS IN PLACE FOR THE FINANCIAL ASSURANCES

12 SECTION. AND IF GUADALUPE IS UNABLE TO UPGRADE

13 THEIR FINANCIAL ASSURANCE MECHANISM TO MEET THE

14 CURRENT COST ESTIMATES THAT ARE REVISED IN THEIR

15 NEW PLAN, WE WOULD BE ABLE TO THEN GO INTO AN

16 ENFORCEMENT ACTION WITH THEM.

17 MEMBER JONES: THAT COULD --

18 MS. THOMAS: WHICH COULD BE A STIPULATED

19 COMPLIANCE ORDER FOR THE BOARD.

20 MEMBER JONES: OR A CEASE AND DESIST.

21 MS. THOMAS: IF THAT'S THE OPTION, SURE.

22 MEMBER JONES: I MEAN, SO YOU COULD

23 EFFECTIVELY SHUT THEM DOWN IF THEY DID NOT

24 COMPLY.

25 MS. THOMAS: IF IT'S THE BOARD'S WISHES.

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1           MEMBER JONES: OKAY. MR. CHAIRMAN, I  
2 WOULD LIKE TO PROPOSE CONCURRENCE --  
3           CHAIRMAN EATON: MR. FRAZEE.  
4           MEMBER JONES: OH, I'M SORRY.  
5           MEMBER FRAZEE: COULD I ASK COUNSEL A  
6 PROCEDURAL QUESTION BEFORE YOU MAKE YOUR MOTION?  
7 UNDER THE RULES THAT THIS BOARD  
8 OPERATES, IT REQUIRES FOUR VOTES TO PASS AN ITEM.  
9 IF IT FAILS THOSE FOUR VOTES THEN IT'S DEEMED TO  
10 BE AUTOMATICALLY APPROVED. IS A SUBSEQUENT  
11 MOTION IN ORDER AFTER THAT? TAKE THE CASE THAT  
12 THAT MOTION FAILS TO GET THE FOUR VOTES, IS A  
13 SUBSEQUENT MOTION IN ORDER?  
14           MS. TOBIAS: CERTAINLY. WHAT THE  
15 STATUTE SAYS IS THAT YOU NEED FOUR VOTES TO  
16 APPROVE THE PERMIT, FOUR VOTES TO OBJECT TO THE  
17 PERMIT. IF THERE ARE NOT FOUR VOTES FOR EITHER  
18 DIRECTION, THEN THE PROJECT IS DEEMED APPROVED IN  
19 60 DAYS.  
20           MEMBER FRAZEE: YES. AND THAT DEEMED  
21 APPROVAL WOULD NOT -- OR, SINCE THIS IS AN  
22 INFORMAL PRESENTATION OF THIS CLOSURE, THAT  
23 APPROVAL WOULD REVERT BACK TO THE -- WHAT IS IN  
24 THE PERMIT AS CLOSURE FUNDS. CLOSURE AND POST25 CLOSURE.

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1 MS. TOBIAS: WELL, THE WAY THAT IT'S  
2 DEEMED APPROVED IS TECHNICALLY ON WHATEVER THE  
3 PROJECT IS THAT THE APPLICANT SUBMITTED.  
4 MEMBER FRAZEE: RIGHT.  
5 MS. TOBIAS: AND SO IF THE APPLICANT SAID  
6 THEY WERE GOING TO AGREE TO THAT, THEN  
7 THEORETICALLY YOU COULD HOLD THEM TO -- IT WOULD  
8 PROBABLY BE SOMETHING THAT WOULD BE DEBATED IN  
9 THE COURTS IF PUSH CAME TO SHOVE ON IT.  
10 MEMBER FRAZEE: OKAY. SO --  
11 MS. TOBIAS: I GUESS AT THIS POINT I  
12 WOULD SAY I THINK THAT'S A PRETTY OPEN QUESTION  
13 LEGALLY, AS TO --  
14 MEMBER FRAZEE: BECAUSE THIS INCREASE CAN  
15 PLAY ONE WAY OR THE OTHER. IF --  
16 MS. TOBIAS: RIGHT.  
17 MEMBER FRAZEE: -- YOU'RE GOING TO FORCE  
18 THEM INTO IT BY THE DEFAULT VOTE, THEN WHY ISN'T  
19 IT ACCEPTED AS A -- ON THE PERMIT SIDE OF IT?  
20 MS. TOBIAS: WELL, I THINK THAT'S THE  
21 QUESTION.  
22 CHAIRMAN EATON: MR. JONES.  
23 MEMBER JONES: SENATOR ROBERTI.  
24 CHAIRMAN EATON: SENATOR ROBERTI, I'M  
25 SORRY.

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1 MEMBER ROBERTI: I'VE GOT A QUESTION OF  
2 COUNSEL ON THE -- ON OUR VOTING PROCEDURE. YOU  
3 SAID THE STATUTE SAYS FOUR VOTES FIRST -- WE HAVE  
4 TO TAKE A VOTE FIRST --

5 MS. TOBIAS: TO CONCUR IN IT.

6 MEMBER ROBERTI: -- TO CONCUR. THAT'S  
7 THE CONCUR AND THE RECOMMENDATION OF THE LOCAL,  
8 OF THE LEA?

9 MS. TOBIAS: THE MOTION CAN BE EITHER  
10 WAY. IT'S WHATEVER COMES UP FIRST, SO --

11 MEMBER ROBERTI: WHAT HAPPENS IF THERE'S  
12 NO RECOMMENDATION OF THE LEA BEFORE US, DOES THE  
13 STATUTE WORK THE SAME WAY?

14 MS. TOBIAS: NO RECOMMENDATION OF THE  
15 LEA? I DON'T UNDERSTAND.

16 UNIDENTIFIED SPEAKER: BY VIRTUE OF THE  
17 FACT THAT YOU HAVE THE APPLICATION BEFORE YOU,  
18 YOU HAVE A REQUEST FROM THE LEA TO CONCUR. BOARD  
19 STAFF IS RECOMMENDING --

20 MEMBER ROBERTI: BUT I UNDERSTOOD ON THAT  
21 PORTION OF THIS APPLICATION, THE PART DEALING  
22 WITH CLOSURE, WE HAVE NO COMPLETED --

23 UNIDENTIFIED SPEAKER: AND THAT'S WHY  
24 YOUR BOARD STAFF IS RECOMMENDING OBJECTION.

25 MS. TOBIAS: RIGHT.



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1 UNIDENTIFIED SPEAKER: BUT YOU STILL NEED  
2 FOUR VOTES FOR EITHER OF THOSE ACTIONS.  
3 MEMBER ROBERTI: BUT IF WE OBJECT --  
4 OKAY. IF WE DON'T -- IF WE HAVE INSUFFICIENT  
5 VOTES -- WHAT HAPPENS ON THAT?  
6 MS. TOBIAS: WELL, THAT'S THE PROBLEM.  
7 THE WAY THE STATUTE WAS SET UP WAS THAT THE  
8 LEGISLATURE DID NOT WANT TO HAVE HAPPEN AT THE  
9 BOARD LEVEL WHAT OFTEN HAPPENS AT THE LOCAL  
10 LEVEL. AND THAT IS THAT IF YOU HAVE AN  
11 INSUFFICIENT NUMBER OF VOTES TO APPROVE A PROJECT  
12 THE PROJECT DRIFTS FOR A WHILE, AND IT COMES  
13 BACK, OR IT SITS, OR -- OR ITS' DENIED.  
14 SO WHAT THE LEGISLATURE DID WAS  
15 BASICALLY SET OUT THAT YOU EITHER HAVE TO APPROVE  
16 IT OR YOU HAVE TO OBJECT TO IT. OR, IF YOU CAN'T  
17 COME TO AN AGREEMENT, WHICH GIVES YOU THE  
18 INCENTIVE TO TRY AND FIND AN AGREEMENT, THEN IT  
19 IS DEEMED APPROVED.  
20 WE'VE NOT HAD A DISAGREEMENT OVER  
21 WHAT'S IN THE PERMIT WHERE A PROJECT WAS DEEMED  
22 APPROVED. SO I THINK IT'S -- LEGALLY THE  
23 QUESTION'S OPEN AS TO WHAT THE CONDITIONS OF THE  
24 PERMIT...  
25 GENERALLY WHAT HAPPENS WITH A ERMIT

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1 IS THAT ANY STANDARD CONDITIONS THAT YOU HAVE ON  
2 THE PROJECT WOULD NORMALLY KIND OF TRAVEL WITH  
3 THAT PROJECT. SO IF YOU HAVE STANDARD CONDITIONS  
4 THAT AN LEA TYPICALLY PUTS ON ANY LANDFILL  
5 PROJECT, I BELIEVE THAT THE COURTS WILL PROBABLY  
6 FIND THAT THOSE CONDITIONS WOULD ATTACH TO THAT  
7 PERMIT.  
8 IN TERMS OF ANYTHING ELSE KIND OF  
9 ATTACHING TO IT, OR RIDING WITH IT, I THINK  
10 THAT'S AN OPEN QUESTION. YOU COULD ASK THAT THE  
11 APPLICANT AGREE TO THIS AND INCLUDE IT AS PART OF  
12 THEIR PROJECT DESCRIPTION SO THAT IT'S PART OF  
13 WHAT THEY'RE PROPOSING. BUT AS TO WHETHER WE  
14 COULD LEGALLY HOLD THEM TO THAT, I THINK THAT'S  
15 THE OPEN QUESTION.  
16 MEMBER ROBERTI: NOW, ONE FINAL QUESTION  
17 IS, WHEN WE VOTE DO WE, BY STATUTE OR BY CUSTOM,  
18 VOTE ON EACH PARTICULAR OF THE PROJECT, OR IT'S  
19 JUST THE WHOLE --  
20 MS. TOBIAS: NO, WE NORMALLY JUST DO A  
21 MOTION ON THE PROJECT.  
22 BUT YOU WILL HAVE A RESOLUTION THAT IF  
23 YOU DO COME TO A VOTE OF FOUR ON ANY ONE OF THE  
24 TWO CHOICES, YOUR RESOLUTION WOULD HOPEFULLY  
25 REFLECT YOUR REASONS FOR AGREEING OR YOUR REASONS

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1 FOR OBJECTING, CONCURRING OR OBJECTING.

2 CHAIRMAN EATON: BUT IF THERE IS A --

3 WHERE THERE ARE NOT FOUR VOTES REACHED EITHER WAY

4 YOU WON'T --

5 MS. TOBIAS: YOU WON'T HAVE A RESOLUTION

6 TO REFLECT --

7 CHAIRMAN EATON: -- HAVE A RESOLUTION

8 THAT REFLECTS --

9 MS. TOBIAS: -- WHAT YOU'VE DONE.

10 CHAIRMAN EATON: -- IT, SO THAT 10 YEARS

11 OR FIVE YEARS FROM NOW, WHENEVER A NEW BOARD

12 DECIDES IT WON'T -- IT'LL BE DEEMED APPROVED BY

13 OPERATION OF LAW, AS OPPOSED TO ANY OTHER KIND OF

14 SITUATION. BUT THERE'S NO WAY I THINK WHERE WE

15 CAN DIVIDE THE QUESTION.

16 BUT I THINK MR. PENNINGTON HAD A

17 POINT, IF I'M NOT MISTAKEN.

18 MEMBER PENNINGTON: YEAH, I -- AGAIN,

19 THANK YOU, MR. CHAIRMAN.

20 I JUST WANTED TO ASK COUNSEL IF WE

21 HAD A MOTION TO CONCUR COULD WE NOT INCLUDE THIS

22 DOCUMENT AS PART OF THE MOTION?

23 MS. TOBIAS: CERTAINLY. AND I WOULD

24 EXPECT THAT YOUR -- THAT IF THAT MOTION WAS

25 SUCCESSFUL, THAT YOUR RESOLUTION WOULD REFLECT

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1 THAT.

2 MEMBER JONES: EXACTLY.

3 MEMBER ROBERTI: ONE FINAL QUESTION. I  
4 AM STILL IN THE DARK ON THIS. BUT ON THE CLOSURE  
5 ASPECT OF THIS PERMIT, WE DO NOT HAVE A FINDING  
6 BY THE LEA THAT THERE'S A COMPLETE -- WHAT'S THE  
7 WORD? -- IS IT COMPLETED PLAN FOR CLOSURE? I  
8 DON'T KNOW. IN EFFECT, THERE'S NO FINDING FROM  
9 THE LEA BEFORE US. ALL WE HAVE IS THE FINDING OF  
10 WHAT -- OF THE LEA REGARDING THE CEQA.

11 50 IF WE DON'T HAVE SUFFICIENT VOTES  
12 FOR A RESOLUTION, EITHER APPROVAL OR NEGATIVE,  
13 WHAT HAPPENS? WE HAVE KIND OF A --

14 CHAIRMAN EATON: IT'S DEEMED APPROVED.

15 MEMBER ROBERTI: IT'S DEEMED APPROVED  
16 EVEN THOUGH WE DON'T HAVE A FINDING BY THE LEA?

17 MS. TOBIAS: WELL, I GUESS ONE OF THE  
18 THINGS THAT I WOULD POINT OUT --

19 CHAIRMAN EATON: WELL, WHY DON'T WE LET  
20 THE LEA --

21 MR. LORD: WE HAVE FOUND THE DOCUMENT  
22 COMPLETE. WE GO THROUGH A 30-DAY COMPLETENESS  
23 REVIEW, AND THEN IT GOES INTO --

24 MEMBER ROBERTI: EVEN ON THE CLOSURE  
25 ISSUE?

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1 MR. LORD: ON THE CLOSURE ISSUE, YES.

2 BECAUSE WE CONSIDER THE FINANCIAL MECHANISM THE

3 PURVIEW OF THE BOARD UNDER THE NEW...

4 THE DOCUMENT WAS SUBMITTED PRIOR TO

5 AB 2120 —

6 MEMBER ROBERTI: OKAY, THAT'S FINE.

7 THAT'S NEWS TO ME, THOUGH. I'VE BEEN GOING

8 THROUGH THIS HEARING ON -- SORT OF ON THE PREMISE

9 THAT THE LEA DID NOT FIND -- THAT IT'S BEFORE US

10 BECAUSE THE LEA FOUND ON THE CEQA ISSUE APPROVAL,

11 BUT ON THE CLOSURE ISSUE, SORT OF HERE, LIKE ON

12 PIGGYBACK WITH THE OTHER ONE.

13 MR. LORD: THIS CLOSURE SUBMITTAL WAS

14 INITIATED PRIOR TO AB 1220. AND DURING THAT TIME

15 THE REGIONAL BOARD AND THE LEA PROVIDED COMMENTS

16 TO THE WASTE BOARD, AND THE WASTE BOARD RESPONDED

17 BACK TO THE APPLICANT. THE DOCUMENT --

18 MR. WALKER: ACTUALLY, WE NEVER RECEIVED

19 THE CLOSURE. WE HAVE NO RECORD THAT WE RECEIVED

20 IT AT THE BOARD AT THAT TIME.

21 MR. LORD: YEAH, THAT'S CORRECT.

22 MS. TOBIAS: I MIGHT ALSO POINT OUT THAT,

23 CONSISTENT WITH -- AND MAYBE CLOSURE STAFF CAN

24 HELP ME WITH THIS. BUT UNDER SECTION 44009 THE

25 STATUTE SAYS THAT IF THE BOARD DETERMINES THAT

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1 THE PERMIT IS NOT CONSISTENT WITH THE STATE  
2 MINIMUM STANDARDS ADOPTED PURSUANT TO, ETC., THE  
3 BOARD SHALL OBJECT.  
4 IS THE CLOSURE PLAN CONTAINED IN  
5 THOSE PROVISIONS, SCOTT, DO YOU REMEMBER? MY  
6 RECOLLECTION IS THAT IT DOES, BUT....  
7 MR. WALKER: RIGHT. WHEN IT REFERS IN  
8 GENERAL TO STATE MINIMUM STANDARDS, THERE ARE  
9 STATE MINIMUM STANDARDS THAT THERE IS ADEQUATE  
10 FINANCIAL ASSURANCES FOR CLOSURE AND ADEQUATE  
11 COST ESTIMATES.  
12 IF THERE WAS A PLAN BEFORE US THAT  
13 WOULD ADDRESS THOSE MINIMUM STANDARDS THEN THAT  
14 ASPECT, YOU KNOW, COULD BE -- POTENTIALLY BE  
15 CONSIDERED IN A DECISION.  
16 MS. TOBIAS: OKAY. SO I WOULD TAKE THIS  
17 OPPORTUNITY JUST TO POINT OUT THE SECTIONS OF  
18 44009. WHICH SUBSECTION TWO SAYS THAT THE BOARD  
19 DETERMINES --  
20 "IF THE BOARD DETERMINES THAT THE  
21 PERMIT IS NOT CONSISTENT WITH STATE  
22 MINIMUM STANDARDS THE BOARD SHALL OBJECT  
23 TO THE PROVISION OF THE PERMIT AND SHALL  
24 SUBMIT THESE OBJECTIONS TO THE LOCAL  
25 ENFORCEMENT AGENCY FOR ITS

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1 CONSIDERATION."  
2 THEN SECTION THREE, AS WE'VE TALKED  
3 ABOUT, SAYS:  
4 "IF THE BOARD FAILS TO CONCUR OR  
5 OBJECT IN WRITING WITHIN THE 60-DAY  
6 PERIOD THE BOARD SHALL BE DEEMED TO HAVE  
7 CONCURRED IN THE ISSUANCE OF THE PERMIT."  
8 AND THEN IT SAYS, IN SUBSECTION B(C),  
9 IT SAYS:  
10 "IN OBJECTING TO THE ISSUANCE,  
11 MODIFICATION OR REVISION OF ANY SOLID  
12 WASTE FACILITIES PERMIT THE BOARD SHALL,  
13 BASED ON SUBSTANTIAL EVIDENCE IN THE  
14 RECORD AS TO THE MATTER BEFORE THE BOARD,  
15 STATE ITS REASONS FOR OBJECTING. THE  
16 BOARD SHALL NOT OBJECT TO THE ISSUANCE,  
17 MODIFICATION, OR REVISION UNLESS THE  
18 BOARD FINDS THAT THE PERMIT IS NOT  
19 CONSISTENT WITH THE STATE MINIMUM  
20 STANDARDS."  
21 SO I JUST WANTED TO MAKE SURE THAT --  
22 ESPECIALLY SINCE WE HAVE A NEW BOARD MEMBER --  
23 WHAT THE SECTIONS OF 440009 SAY.  
24 MEMBER JONES: MR. CHAIRMAN?  
25 CHAIRMAN EATON: MR. JONES.

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1           MEMBER JONES: ONE OF THE FINDINGS THAT  
2 WAS PART OF THE PACKAGE SAYS THAT CONFORMANCE  
3 WITH STATE MINIMUM STANDARDS, THAT THE  
4 INSPECTIONS DON'T DOCUMENT ANY VIOLATIONS IN  
5 THREE YEARS, THAT YOU'RE GOING TO DO A PRE  
6 INSPECTION, AND THAT THERE WAS ALSO GOING TO BE  
7 DONE.  
8 I MEAN, I'M PREPARED TO MAKE A MOTION  
9 BECAUSE IT IS -- WE'RE NOT SUPPOSED TO CONDITION  
10 PERMITS, BUT SINCE THE APPLICANT OFFERED THIS  
11 ADDENDUM, AND SINCE WE HAVE A REMEDY THAT WE CAN  
12 USE, AND IF WE DON'T DO THIS THE LEA CAN ISSUE  
13 THIS PERMIT WITHOUT THIS, THEN I AM GOING TO MAKE  
14 A MOTION THAT WE CONCUR WITH PERMIT NUMBER --  
15 IT'S NOT ON MY -- IT'S NOT ON THIS ONE -- OH,  
16 HERE IT IS, SWIS NUMBER -- IS SWIS NUMBER THE ONE  
17 YOU WANT TO USE, FOUR THREE? -- 43-AN-0015, TO  
18 INCLUDE THE ADDENDUM WRITTEN AND SIGNED ON  
19 FEBRUARY 23RD, AGREEING TO REVISE THE  
20 CLOSURE/POST-CLOSURE ESTIMATES. AND THEIR  
21 REVISION IS TO \$5.8 MILLION. UNDERSTANDING THAT  
22 THEY ARE GOING TO NEED TO WORK WITH THE WATER  
23 BOARD, THE LEA, AND THE WASTE BOARD I GUESS FOR  
24 COMMENT, TO FINALIZE THAT, AND THAT COULD TAKE A  
25 LONG TIME. BUT THAT IS MY MOTION.



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1           CHAIRMAN EATON: AND IN YOUR MOTION WE'RE  
2 NOT DEEMING THAT THE PROCESS HAS BEEN COMPLETE.  
3 IS THAT CORRECT?

4           MEMBER JONES: NO. THE PROCESS IS -- THE  
5 PERMIT IS GOING TO BE -- WHAT I AM PROPOSING IS  
6 THAT WE DEEM THE PERMIT COMPLETE, BASED ON THE  
7 ADDENDUM, BUT THAT THE ADDENDUM AND THE  
8 SUBSEQUENT WORK ON CLOSURE/POST-CLOSURE HAS GOT  
9 TO BE CONDUCTED IN A TIMELY MANNER, HAS TO BE  
10 COMPLETED, AND HAS TO BE SIGNED OFF BY THE WATER  
11 BOARD AND THE LEA, AND THE WASTE BOARD AT SOME  
12 POINT.

13          CHAIRMAN EATON: BUT THAT'S THE  
14 TROUBLESOME PART, IS THAT THERE ISN'T A PROCESS  
15 THAT'S COMPLETE. SO WE'RE ISSUING A PERMIT WHERE  
16 THE PROCESS IS NOT COMPLETE, OR AT LEAST  
17 ACKNOWLEDGE THAT IT'S NOT COMPLETE, AND YET WE'RE  
18 CONDITIONING -- AND I THINK THAT'S THE "CATCH 22"  
19 THAT WE'RE IN, IRRESPECTIVE OF OUR OWN PERSONAL  
20 FEELINGS. AND THAT'S WHAT CAUSES THE SORT OF  
21 UNCOMFORTABLE LEVEL WITH DOING IT.  
22 BUT, I THINK WE'VE PROBABLY SPENT A  
23 COUPLE OF HOURS ON IT, IT'S PROBABLY TIME TO MOVE  
24 ON.

25          MEMBER PENNINGTON: MR. CHAIRMAN, I'LL

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1 SECOND MR. JONES' MOTION.

2 CHAIRMAN EATON: MADAM SECRETARY, PLEASE

3 CALL THE ROLL?

4 MEMBER ROBERTI: I JUST WOULD LIKE TO --

5 CHAIRMAN EATON: SENATOR ROBERTI, GO

6 AHEAD.

7 MEMBER ROBERTI: YEAH, I WOULD JUST LIKE

8 TO SPEAK VERY BRIEFLY TO MY VOTE. I TOTALLY

9 APPRECIATE THE APPLICANT'S FRUSTRATIONS AND

10 CONCERNS IN THIS AREA.

11 HOWEVER, GOING BACK TO THE ORIGINAL

12 QUESTION ON CEQA, I THINK THE NOTICE REQUIREMENT

13 IS TERRIBLY IMPORTANT. I HEARD WHAT YOUR

14 ATTORNEY HAD TO SAY, AND HE PRESENTED A VERY FINE

15 CASE ON VERY CONFUSED LANGUAGE.

16 BUT, I REFER ONCE AGAIN BACK TO THE

17 POINT THAT THE AVERAGE -- THAT THE 3,000 ORIGINAL

18 FIGURE WAS TO GIVE FLEXIBILITY OR FLUCTUATION.

19 AND I THINK THAT TILTS THE WHOLE MATTER ON THE

20 SIDE THAT THIS WAS NOT TO BE DAILY, BUT IT WAS A

21 PEAK PERFORMANCE KIND OF DISPOSAL ISSUE.

22 AND, NUMBER TWO, THE FACT THAT THE

23 1991 PERMIT WAS DONE BY ADDENDUM, IN MY MIND IF

24 THE CITY OF SAN JOSE WAS BEING RESPONSIBLE, AND

25 THIS BOARD WAS BEING RESPONSIBLE -- AND I THINK

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1 THE PRESUMPTION IS IN BOTH CASES THAT IS TRUE --  
2 THEY WOULD NOT HAVE INCREASED THE IMPACT ON  
3 RESIDENCES IF IT WAS GOING TO BE A SIGNIFICANT  
4 CHANGE FROM 1988. AND THEY DID THIS BY ADDENDUM,  
5 WHICH MEANS THEY DID IT WITHOUT NOTICE, AND IT'S  
6 HARD FOR ME TO BELIEVE THEN THAT THEY INTENDED AN  
7 INCREASE AT THAT POINT FROM 582 TO 3,000 WITHOUT  
8 NOTICING THOSE PEOPLE WHO WOULD BE MOST DIRECTLY  
9 AFFECTED.  
10 NUMBER THREE, IT'S HARD FOR ME TO  
11 VOTE FOR SOMETHING -- DESPITE THE VERY GOOD  
12 INTENTIONS OF THE APPLICANT WITH THIS ADDENDUM  
13 THAT THEY COME UP WITH TODAY -- FOR A CLOSURE IN  
14 WHICH WE DON'T HAVE A FINAL PLAN BEFORE US. I  
15 THINK THAT'S A BAD PRECEDENT.  
16 FOR THOSE REASONS, I WILL VOTE NO,  
17 AND THAT IS NOT TO SAY THAT I DO NOT SHARE,  
18 HAVING HEARD HIM BEFORE ME IN MY OFFICE AND NOW  
19 TODAY, HIS CONCERNS OVER VERY, VERY MURKY  
20 LANGUAGE.  
21 MEMBER FRAZEE: JUST ONE COMMENT, MR.  
22 CHAIRMAN?  
23 CHAIRMAN EATON: MR. FRAZEE.  
24 MEMBER FRAZEE: I WISH I WOULD HAVE  
25 RETIRED LAST MONTH.

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1 CHAIRMAN EATON: MADAM SECRETARY, PLEASE  
2 CALL THE ROLL.  
3 THE SECRETARY: BOARD MEMBERS FRAZEE?  
4 MEMBER FRAZEE: AYE.  
5 THE SECRETARY: JONES?  
6 MEMBER JONES: AYE.  
7 THE SECRETARY: PENNINGTON?  
8 MEMBER PENNINGTON: AYE.  
9 THE SECRETARY: ROBERT I?  
10 MEMBER ROBERTI: NO.  
11 THE SECRETARY: CHAIRMAN EATON?  
12 CHAIRMAN EATON: NO.  
13 MEMBER FRAZEE: SUBSEQUENT MOTION?  
14 MEMBER  
15 ROBERTI: WELL, I JUST GUESS TO COMPLETE THE  
16 LOOP --ALTHOUGH --TO PUT IT IN A TERM OF ART  
17 HERE AT THE BOARD IS TO CLOSE THE LOOP.  
18 MEMBER ROBERTI: THAT'S RIGHT. TO CLOSE  
19 THE LOOP, I GUESS I WILL MOVE -- WHAT IS IT,  
20 DENIAL OF THE PERMIT? I DON'T WANT TO DENY, I  
21 MEAN, IT'S --  
22 MEMBER FRAZEE: TO NOT CONCUR --  
23 MEMBER ROBERTI: OBJECTION, OBJECTION --  
24 MEMBER ROBERTI: -- I MOVE.  
25 CHAIRMAN EATON: AND I'LL SECOND THAT

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1 MOTION.

2 ANYTHING -- MR. FRAZEE?

3 MEMBER FRAZEE: YES. I WAS JUST GOING TO

4 SUGGEST THAT I'M GOING TO SUPPORT THIS MOTION

5 BECAUSE I'M VERY DOUBTFUL ON THE VALIDITY OF THE

6 PROPOSED INCREASES IN THE CLOSURE. AS I SAID AT

7 THE OUTSET, THAT WAS MY PRIMARY CONCERN, WAS

8 ADEQUATE CLOSURE. AND I DON'T KNOW WHETHER THIS

9 CAN STAND OR NOT. SO LACKING THE ADEQUATE

10 CLOSURE, I'M GOING TO SUPPORT THE MOTION.

11 CHAIRMAN EATON: ALL RIGHTY. ANY OTHER

12 COMMENTS, DISCUSSIONS? SEEING NONE, MADAM

13 SECRETARY, PLEASE CALL THE ROLL.

14 MEMBER JONES: AH -- I --

15 CHAIRMAN EATON: MR. JONES?

16 MEMBER JONES: THE MOTION IS NOT TO

17 CONCUR, SO A YES VOTE MEANS IT IS NOT TO CONCUR.

18 OKAY, I JUST WANTED TO MAKE SURE.

19 THE SECRETARY: BOARD MEMBERS FRAZEE?

20 MEMBER FRAZEE: AYE.

21 THE SECRETARY: JONES?

22 MEMBER JONES: NO.

23 THE SECRETARY: PENNINGTON?

24 MEMBER PENNINGTON: NO.

25 THE SECRETARY: ROBERTI?

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1 MEMBER ROBERTI: AYE.  
2 THE SECRETARY: CHAIRMAN EATON?  
3 CHAIRMAN EATON: AYE.  
4 THE MOTION FAILS. OKAY.  
5 MEMBER JONES: SO THEY GET THE PERMIT BY  
6 DEFAULT IN 60 DAYS. RIGHT?  
7 CHAIRMAN EATON: THAT'S MY UNDERSTANDING.  
8 AND THANK YOU VERY MUCH, AND FOR  
9 EVERYTHING. THE HOUR OF TWO O'CLOCK HAVING NOW  
10 ARRIVED, I THINK IS THE TERM OF ART USED, WE WILL  
11 -- IF YOU COULD KIND OF BE QUIET AS YOU LEAVE, WE  
12 STILL HAVE A LOT OF AGENDA LEFT. THE HOUR OF TWO  
13 O'CLOCK HAVING ARISEN, ALBEIT LATE, BUT I BELIEVE  
14 IT'S ALMOST HAWAII TIME, WE WILL NOW RECESS FROM  
15 OUR REGULAR SESSION AND GO AND MOVE TO A PUBLIC  
16 HEARING FOR THE CONSIDERATION OF THE DENIAL OF  
17 THE WASTE TIRE REGISTRATION FOR IMPORT TIRES,  
18 WASTE TIRE HAULER NUMBER.  
19 PLEASE, COULD WE HAVE SOME ORDER  
20 HERE?  
21 I'LL START ALL OVER. WE'LL NOW MOVE  
22 TO ITEM 28, WHICH IS A PUBLIC HEARING FOR THE  
23 CONSIDERATION OF THE DENIAL OF THE WASTE TIRE  
24 REGISTRATION FOR IMPORT TIRES, WASTE TIRE HAULER  
25 NO. 0838, LOS ANGELES COUNTY.

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1 WOULD THE -- MADAM SECRETARY, WOULD  
2 YOU PLEASE CALL THE ROLL?  
3 THE SECRETARY: BOARD MEMBERS FRAZEE?  
4 MEMBER FRAZEE: HERE.  
5 THE SECRETARY: JONES?  
6 MEMBER JONES: (NO RESPONSE.)  
7 THE, SECRETARY: PENNINGTON?  
8 MEMBER PENNINGTON: HERE.  
9 THE SECRETARY: ROBERTI?  
10 MEMBER ROBERTI: AYE.  
11 THE SECRETARY: CHAIRMAN EATON?  
12 CHAIRMAN EATON: HERE.  
13 A QUORUM IS PRESENT. WHEN MR. JONES  
14 COMES BACK IN, IF WE COULD JUST ADD HIM TO THE  
15 ROLL WITHOUT ANY OBJECTION?  
16 MEMBER PENNINGTON: CERTAINLY.  
17 ITEM NO. 28: PUBLIC HEARING FOR THE  
18 CONSIDERATION OF DENIAL OF THE WASTE TIRE  
19 REGISTRATION FOR IMPORT TIRES, WASTE TIRE HAULER  
20 NO. 0838, LOS ANGELES COUNTY  
21 CHAIRMAN EATON: BEFORE WE START THE  
22 HEARING LET ME TAKE A FEW MOMENTS TO EXPLAIN HOW  
23 THIS HEARING WILL PROCEED.  
24 FIRST OF ALL, ALL THE WITNESSES HERE  
25 TO TESTIFY IN THIS PUBLIC HEARING LISTED AS

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1 AGENDA ITEM 28 IN THE BOARD'S NOTICE WOULD BE  
2 SWORN IN BY THE COURT REPORTER ALL AT ONE TIME.  
3 SECOND, THE BOARD'S LEGAL COUNSEL  
4 WILL GIVE A DESCRIPTION OF THE LEGAL FRAMEWORK OF  
5 THE HEARING, INCLUDING ALL RELEVANT STATUTES,  
6 REGULATIONS, AND REVIEW OF THE HEARING PROCEDURES  
7 AND ISSUES TO BE DECIDED.  
8 THIRD, THE BOARD STAFF WILL MAKE A  
9 PRESENTATION TO THE BOARD REGARDING COMPLIANCE,  
10 NON-COMPLIANCE, AND IT'S RECOMMENDATIONS.  
11 THEREAFTER, AND FOURTH, THE IMPORT  
12 TIRES WILL BE ALLOWED TO MAKE A PRESENTATION TO  
13 THE BOARD IN RESPONSE TO THE STAFF'S  
14 PRESENTATION.  
15 AFTER THAT THE BOARD STAFF MAY MAKE A  
16 REBUTTAL PRESENTATION. AND AFTER EACH  
17 PRESENTATION THE BOARD MEMBERS MAY ASK QUESTIONS.  
18 HAVING SAID THAT, AND IF THERE'S NO  
19 QUESTIONS, I WILL NOW ASK ALL PARTIES THAT ARE  
20 INTENDING TO OR ARE WITNESSES HERE, OR TO  
21 TESTIFY ON THE HEARING OF THIS PARTICULAR ITEM TO  
22 PLEASE STAND WHILE THE COURT REPORTER ADMINISTERS  
23 THE OATH. WOULD YOU PLEASE STAND BOTH THE....  
24 WHEREUPON,  
25 ALL PARTIES DESCRIBED ABOVE,



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1 HAVING BEEN FIRST DULY SWORN, DID TESTIFY AS  
2 FOLLOWS.

3 CHAIRMAN EATON: JUST AS A PROPER NOTICE,  
4 IS THERE ANYONE HERE FROM IMPORT TIRES?  
5 OKAY, HEARING NONE, WE'LL NOW PROCEED  
6 WITH THE PRESENTATION BY LEGAL COUNSEL AS TO THE  
7 LEGAL FRAMEWORK FROM WHICH WE WILL OPERATE.

8 MS. SMALL: GOOD MORNING, BOARD MEMBERS  
9 AND MR. CHAIRMAN, MY NAME IS SUZANNE SMALL, I'M  
10 FROM THE LEGAL OFFICE --

11 CHAIRMAN EATON: IT'S THE AFTERNOON. IF  
12 YOU HAVEN'T NOTICED --

13 MS. SMALL: YOU ARE ABSOLUTELY RIGHT --

14 CHAIRMAN EATON: IT SEEMS LIKE MORNING,  
15 BUT IT IS THE AFTERNOON.

16 MS. SMALL: MAYBE THAT WAS WISHFUL  
17 THINKING.

18 IN ANY EVENT, I AM HERE ON BEHALF OF  
19 THE PROGRAM TO PRESENT THIS HEARING. THIS  
20 PARTICULAR HEARING IS WITH REGARD TO A WASTE  
21 HAULER REGISTRATION THAT HAS BEEN DENIED TO  
22 IMPORT TIRES. IMPORT TIRES DID HAVE A  
23 REGISTRATION LAST YEAR, WHOEVER THERE HAVE BEEN  
24 OCCURRENCES WITHIN THE LAST YEAR THAT ARE DEEMED  
25 VIOLATIONS BY THE PROBLEM AND SO THEIR PERMIT WAS

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1 NOT -- EXCUSE ME, THEIR REGISTRATION WAS NOT RE-  
2 ALLOWED.  
3 BRIEFLY, THIS HEARING WILL BE  
4 CONDUCTED IN A RELATIVELY INFORMAL MANNER, IN  
5 THAT MOST OF THE QUESTIONS THAT WILL BE ANSWERED  
6 WILL BE BRIEFLY ANSWERED, AND THEN A  
7 CONVERSATIONAL STATEMENT WILL BE MADE BY BOTH OF  
8 THE BOARD'S WITNESSES TO ALLOW THE BRIEFEST  
9 AMOUNT OF TESTIMONY.  
10 THE BOARD IS AUTHORIZED, UNDER PUBLIC  
11 RESOURCES CODE SECTION 42950 AND THE FOLLOWING,  
12 TO REGISTER WASTE TIRE HAULERS THAT HAUL MORE  
13 THAN FOUR WASTE TIRES AT A TIME. THESE  
14 REGISTRATIONS ARE REQUIRED YEARLY BY REGULATION  
15 FOUND AT 14 CALIFORNIA CODE OF REGULATION  
16 SECTIONS 18455.  
17 UNDER PUBLIC RESOURCE CODE SECTION  
18 42959, AND 42960 A WASTE TIRE HAULER REGISTRATION  
19 CAN BE REFUSED FOR ANY OF THE FOLLOWING REASONS:  
20 COMMISSION OF ANY VIOLATION OR FAILURE TO COMPLY  
21 WITH ANY REQUIREMENT OF THE CHAPTER REGULATING  
22 WASTE TIRE HAULING; AIDING OR ABETTING OR  
23 PERMITTING A VIOLATION OF THAT CHAPTER; AIDING,  
24 ABETTING OR PERMITTING FAILURE TO COMPLY WITH  
25 THAT CHAPTER; IF THE FAILURE OF COMPLIANCE SHOWS

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1 A REPEATED OR RECURRING OCCURRENCE; OR POSES A  
2 THREAT TO PUBLIC HEALTH AND SAFETY OR THE SAFETY  
3 OF THE ENVIRONMENT; OR COMMITTING ANY  
4 MISREPRESENTATION OR OMISSION OF A SIGNIFICANT  
5 FACTOR OR OTHER REQUIRED INFORMATION IN THE  
6 APPLICATION FOR THE REGISTRATION.  
7 IN THIS PARTICULAR CASE I BELIEVE  
8 THAT THE EVIDENCE PRESENTED BY THE STAFF WILL  
9 SHOW THAT IMPORT TIRES IS IN VIOLATION OF PUBLIC  
10 RESOURCE CODE SECTION 42591, WHICH PROHIBITS  
11 HAULING TIRES TO A FACILITY THAT IS NOT PERMITTED  
12 FOR THE ACCEPTANCE OF WASTE TIRES.  
13 IF THERE ARE NO QUESTIONS WE WILL  
14 PROCEED WITH THE WITNESSES.  
15 CHAIRMAN EATON: PLEASE DO.  
16 MS. SMALL: AT THIS TIME THE FIRST  
17 WITNESS THAT I AM GOING TO CALL WILL BE AMALIA  
18 FERNANDEZ. SHE WILL BE AUTHENTICATING THE  
19 DOCUMENTS WHICH HAVE BEEN ENTERED AS ATTACHMENTS  
20 TO THIS ITEM.  
21 MS. FERNANDEZ, COULD YOU PLEASE STATE  
22 YOUR FULL NAME FOR THE RECORD?  
23 MS. FERNANDEZ: AMALIA FERNANDEZ.  
24 MS. SMALL: AND ARE YOU PRESENTLY  
25 EMPLOYED?

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1 MS. FERNANDEZ: YES.

2 MS. SMALL: BY WHICH ENTITY?

3 MS. FERNANDEZ: CIWMB.

4 MS. SMALL: AND WHAT IS YOUR PRESENT

5 POSITION WITH THE CIWMB?

6 MS. FERNANDEZ: I WORK WITH THE WASTE

7 TIRE REGISTRATION PROGRAM.

8 MS. SMALL: AND WHAT ARE YOUR DUTIES IN

9 THAT POSITION?

10 MS. FERNANDEZ: I AM THE EMPLOYEE THAT

11 RECEIVES AND REVIEWS THE WASTE TIRE HAULER

12 REGISTRATION APPLICATIONS, MAINTAINS THE OFFICIAL

13 CIWMB RECORDS FOR THE WASTE TIRE HAULER PROGRAM.

14 THIS INCLUDES THE RECORDS FOR THE VEHICLES

15 REGISTERED BY THE HAULERS, THE BONDING

16 INFORMATION, THE HISTORY OF THE HAULERS, AND

17 VARIOUS ITEMS OF CORRESPONDENCE REGARDING VARIOUS

18 WASTE TIRE HAULERS. I MAINTAIN THE OFFICIAL

19 FILES OF THE CIWMB REGARDING WASTE TIRE HAULER

20 REGISTRATION, AND I'M FAMILIAR WITH THE CONTENTS

21 OF THOSE FILES. I ALSO MAINTAIN THE OFFICIAL

22 DATABASE FOR THOSE WASTE TIRE HAULERS ON THE

23 CIWMB COMPUTER SYSTEM.

24 MS. SMALL: CAN YOU PLEASE IDENTIFY FOR

25 ME THE ATTACHMENT 1 TO THE AGENDA ITEM 28 FOR

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1 TODAY'S BOARD MEETING?

2 MS. FERNANDEZ: THAT IS THE WASTE TIRE  
3 INFORMATION SHEET WHICH IS MAINTAINED ON THE  
4 CIWMB WASTE TIRE HAULER COMPUTER SYSTEM. THAT  
5 INFORMATION IS A COMPOSITE FORM OF THE DOCUMENTS  
6 THAT HAVE BEEN SUBMITTED WITH OR IN REFERENCE TO  
7 THE WASTE TIRE HAULER REGISTRATION ISSUED TO  
8 IMPORT TIRES. THIS IS A TRUE AND CORRECT COPY OF  
9 THE ORIGINAL INFORMATION AS MAINTAINED IN THE  
10 OFFICE FILE AT THE CIWMB.

11 MS. SMALL: CAN YOU PLEASE IDENTIFY FOR  
12 ME ATTACHMENT 2 TO AGENDA ITEM 28 FOR TODAY'S  
13 BOARD MEETING?

14 MS. FERNANDEZ: THAT IS A TRUE AND  
15 CORRECT COPY OF THE WASTE TIRE HAULER  
16 REGISTRATION APPLICATION RECEIVED BY THE CIWMB  
17 FOR IMPORT TIRES. THE ORIGINAL OF THAT DOCUMENT  
18 IS MAINTAINED IN THE CIWMB OFFICIAL FILE. I AM  
19 PERSONALLY FAMILIAR WITH THE OFFICIAL FILE.

20 MS. SMALL: CAN YOU PLEASE IDENTIFY FOR  
21 ME ATTACHMENT 3 TO THE AGENDA ITEM 28 FOR TODAY'S  
22 BOARD MEETING?

23 MS. FERNANDEZ: THAT IS A TRUE AND  
24 CORRECT COPY OF A LETTER SIGNED BY JULIE NAUMAN,  
25 DEPUTY DIRECTOR OF THE PERMITTING AND ENFORCEMENT

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1 DIVISION, TO MR. EMMANUEL VARGAS OF IMPORT TIRES.  
2 THAT LETTER INFORMS IMPORT TIRES THAT THEIR WASTE  
3 TIRE HAULER REGISTRATION APPLICATION WAS DENIED  
4 AND THAT THEY ARE ENTITLED TO A HEARING BEFORE  
5 THE BOARD. THIS IS A TRUE AND CORRECT COPY OF  
6 THE COPY OF THE LETTER MAINTAINED IN THE CIWMB  
7 OFFICIAL FILE.

8 MS. SMALL: CAN YOU PLEASE IDENTIFY FOR  
9 ME ATTACHMENT 4 TO THE AGENDA ITEM 28 FOR TODAY'S  
10 BOARD MEETING?

11 MS. FERNANDEZ: THAT IS A TRUE AND  
12 CORRECT COPY OF A LETTER RECEIVED BY THE CIWMB  
13 REQUESTING A HEARING FOR IMPORT TIRES TO CONTEST  
14 THE DENIAL OF THEIR WASTE TIRE HAULER  
15 REGISTRATION. THE ORIGINAL OF THAT LETTER IS  
16 MAINTAINED IN THE CIWMB OFFICIAL FILE.

17 MS. SMALL: THANK YOU FOR YOUR TESTIMONY,  
18 MS. FERNANDEZ.

19 AT THIS POINT WE WOULD LIKE TO ASK  
20 SOME QUESTIONS OF MR. KEITH CAMBRIDGE.  
21 COULD YOU PLEASE STATE YOUR FULL NAME  
22 FOR THE RECORD?

23 MR. CAMBRIDGE: KEITH CAMBRIDGE.

24 MS. SMALL: ARE YOU PRESENTLY EMPLOYED?

25 MR. CAMBRIDGE: YES, I AM.

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1 MS. SMALL: AND BY WHICH ENTITY?

2 MR. CAMBRIDGE: WITH THE CALIFORNIA

3 INTEGRATED WASTE MANAGEMENT BOARD.

4 MS. SMALL: AND WHAT IS YOUR POSITION

5 WITH THE CALIFORNIA INTEGRATED WASTE MANAGEMENT

6 BOARD?

7 MR. CAMBRIDGE: TO CONDUCT INVESTIGATIONS

8 AND INSPECTIONS OF WASTE TIRE FACILITIES AND

9 WASTE TIRE HAULERS.

10 MS. SMALL: AND HOW LONG HAVE YOU

11 PERFORMED THOSE TYPES OF DUTIES?

12 MR. CAMBRIDGE: SINCE NOVEMBER, 1993.

13 MS. SMALL: CAN YOU TELL ME AS AN

14 ESTIMATION HOW MANY WASTE TIRE INVESTIGATIONS

15 YOU'VE DONE?

16 MR. CAMBRIDGE: APPROXIMATELY 350, IN

17 CONJUNCTION WITH MY PARTNER.

18 MS. SMALL: WITHIN YOUR DUTIES AS A WASTE

19 TIRE HAULER INVESTIGATOR HAVE YOU COME IN CONTACT

20 WITH IMPORT TIRES?

21 MR. CAMBRIDGE: YES, I HAVE.

22 MS. SMALL: IN REGARD TO THAT, DID YOU

23 PREPARE ATTACHMENT NO. 5 TO THE AGENDA ITEM

24 PRESENTED TODAY FOR ITEM NO. 28?

25 MR. CAMBRIDGE: YES, I DID.

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1 MS. SMALL: AND CAN YOU PLEASE IDENTIFY  
2 THAT DOCUMENT?

3 MR. CAMBRIDGE: IT IS A REPORT OF  
4 INVESTIGATION TO THE LOS ANGELES COUNTY DISTRICT  
5 ATTORNEY'S OFFICE. OUR CASE NUMBER 98-17C, DATED  
6 APRIL 20TH, 1998.

7 MS. SMALL: AND CAN YOU VERIFY THAT  
8 THAT'S A TRUE AND CORRECT COPY OF WHAT YOU  
9 PREPARED?

10 MR. CAMBRIDGE: YES, IT IS.

11 MS. SMALL: AND IS THE INFORMATION  
12 REFLECTED IN THAT DOCUMENT ACCURATE?

13 MR. CAMBRIDGE: YES, IT IS.

14 MS. SMALL: AND DID YOU FORWARD THAT  
15 DOCUMENT TO THE LOS ANGELES COUNTY DISTRICT  
16 ATTORNEY'S OFFICE?

17 MR. CAMBRIDGE: YES, I DID.

18 MS. SMALL: AT THIS POINT I WOULD LIKE  
19 FOR YOU TO GIVE YOUR INFORMATION THAT YOU HAVE  
20 PREPARED WITH REGARD TO THIS FILE.

21 MR. CAMBRIDGE: OKAY. MR. CHAIRMAN,  
22 MEMBERS OF THE BOARD, I'LL CONDUCT A SLIDE  
23 PRESENTATION CONCURRENTLY WITH THE REPORT.  
24 IN JANUARY, 1998, I RECEIVED A CALL  
25 FROM A COMPLAINANT ALLEGING THE ILLEGAL STORAGE



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1 OF WASTE TIRES AT 37855 90TH STREET IN LITTLE  
2 ROCK, CALIFORNIA.  
3 ON FEBRUARY 11TH, 1998, I,  
4 ACCOMPANIED BY CHRIS MASTRO OF THE LOS ANGELES  
5 COUNTY OF DEPARTMENT HEALTH SERVICES, CONDUCTED  
6 AN INVESTIGATION OF THE SITE. WE OBSERVED A  
7 LARGE AMOUNT OF WASTE TIRES BEING STORED AT THE  
8 WESTERN PORTION OF THE LOCATION. THIS TIRE PILE  
9 WAS APPROXIMATELY 240 FEET IN LENGTH, 120 FEET IN  
10 DEPTH, AND AN AVERAGE OF FIVE TO SIX FEET IN  
11 HEIGHT. IN ADDITION, ANOTHER WASTE TIRE PILE WAS  
12 STORED AT THE ENTRANCE OF THE SITE. IN TOTAL I  
13 ESTIMATED MORE THAN 50,000 WASTE TIRES BEING  
14 STORED AT THIS LOCATION. THIS WAS A CONSERVATIVE  
15 FIGURE, AS I CONSIDERED THAT THERE MAY BE AUTOS  
16 AND OTHER MATERIALS UNDER SOME OF THE TIRES BEING  
17 STORED.  
18 AT THE TIME OF THIS INSPECTION THIS  
19 LOCATION WAS NOT PERMITTED AS A MAJOR WASTE TIRE  
20 FACILITY.  
21 UPON ENTERING THE SITE I INTRODUCED  
22 MYSELF TO MR. JOSEPH VARGAS, WHO IDENTIFIED  
23 HIMSELF AS THE GENERAL MANAGER OF IMPORT TIRES,  
24 AND STATED THAT HIS BROTHER, EMMANUEL VARGAS, WAS  
25 THE OWNER. MR. VARGAS STATED THAT IMPORT TIRES

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1 BEGAN THE COLLECTION OF WASTE TIRES AT THIS SITE  
2 SOMETIME DURING SEPTEMBER, 1997.  
3 I WAS SHOWN A BLANK COPY OF A WASTE  
4 TIRE FACILITY PERMIT APPLICATION BY MR. VARGAS  
5 WHICH HAD BEEN SENT BY THE BOARD TO IMPORT TIRES  
6 IN JANUARY, 1998. I ASKED MR. VARGAS WHY HE AND  
7 HIS BROTHER WAITED APPROXIMATELY FOUR MONTHS  
8 BEFORE REQUESTING THE WASTE TIRE FACILITY PERMIT  
9 APPLICATION FORM. MR. VARGAS STATED THAT HE WAS  
10 DIRECTED BY THE PROPERTY OWNER, MR. MATT JONES,  
11 THAT HE MADE SURE THAT THE IMPORT TIRE OBTAINED  
12 ALL PERMITS THAT WERE NEEDED PRIOR TO COLLECTING  
13 ANY MORE TIRES AT THIS SITE.  
14 I WAS INFORMED BY MR. VARGAS THAT IN  
15 THEIR BUSINESS AREA OF COVERAGE FOR TIRE  
16 COLLECTION THIS AREA COVERED FROM PALMDALE TO  
17 SANTA ANA, APPROXIMATELY TWO HOURS AWAY, OR 90-  
18 PLUS MILES.  
19 MR. VARGAS STATED THAT HIS REMOVAL  
20 COST WAS APPROXIMATELY 60 CENTS PER TIRE FROM  
21 TIRE DEALERS. THIS COST WAS VERY LOW AND DID NOT  
22 TAKE INTO CONSIDERATION THE DISPOSAL COSTS FOR  
23 THESE WASTE TIRES FROM THE IMPORT TIRES SITE.  
24 MR. VARGAS ADDED THAT HE AND HIS  
25 BROTHER BECAME FAMILIAR WITH THIS TYPE OF

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1 BUSINESS FROM ANOTHER INDIVIDUAL, MR. ROBERT  
2 WEISMAN, WHO STATED THAT THERE WAS GOOD MONEY IN  
3 THE COLLECTION OF WASTE TIRES.  
4 AT THIS POINT IN TIME I'D LIKE TO  
5 MENTION THAT MR. WEISMAN WAS ALSO INVESTIGATED BY  
6 BOARD STAFF IN 1997 FOR THE ABANDONMENT OF WASTE  
7 TIRES IN THE NORTHRIDGE AREA.  
8 MR. MASTRO AND I THEN WENT TO NEXT  
9 DOOR, INTRODUCED OURSELVES TO MR. MATT JONES, AND  
10 EXPLAINED THE PURPOSE OF OUR VISIT. MR. JONES  
11 STATED THAT IMPORT TIRES CAME TO HIM  
12 APPROXIMATELY ONE YEAR PRIOR TO OUR INSPECTION  
13 DATE, WHICH WOULD BE THE EARLY SPRING, 1997, AND  
14 ASKED TO STORE CARS ON THE SITE. A RENTAL  
15 AGREEMENT WAS SIGNED FOR \$600 PER MONTH, THEN  
16 INCREASED TO \$800 PER MONTH. MR. JONES STATED  
17 THAT MR. VARGAS BECAME DELINQUENT IN THE RENT,  
18 ASSUMED MR. JONES KNEW THAT IMPORT TIRES WAS  
19 STORING TIRES ON THE SITE.  
20 MR. VARGAS SHOWED MR. JONES A SURETY  
21 BOND FOR \$10,000 AS COLLATERAL SHOULD THEY  
22 ABANDON THE SITE. MR. JONES STATED THAT HE STILL  
23 FELT VERY UNCOMFORTABLE WITH THE SITUATION AND  
24 THAT THE TIRES WERE BEING STORED ON THE PROPERTY,  
25 AND REQUESTED THEY FURTHER EXPLORE THE PERMITTING

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1 PROCESS TO ENSURE THAT THIS OPERATION WAS A  
2 LEGITIMATE OPERATION.  
3 I INFORMED MR. JONES, AS THE PROPERTY  
4 OWNER, THAT HE ALSO MAY BE RESPONSIBLE FOR THE  
5 WASTE TIRE REMOVAL IF IMPORT TIRES CHOSE TO  
6 ABANDON THE SITE.  
7 ON FEBRUARY 23RD, 1998, A LETTER OF  
8 VIOLATION WAS POSTED BY U.S. MAIL TO MR. EMMANUEL  
9 VARGAS, AND CARBON COPIED TO MR. JONES, NOTING  
10 SEVERAL VIOLATIONS OF THE CALIFORNIA CODE OF  
11 REGULATIONS, TITLE 14. IN THIS L.V. A CORRECTIVE  
12 ACTION PLAN WAS REQUIRED BY MARCH 31ST, 1998.  
13 THIS PLAN WAS NEVER RECEIVED.  
14 ON APRIL 20TH THIS CASE WAS REFERRED  
15 TO THE LOS ANGELES COUNTY DISTRICT ATTORNEY'S  
16 OFFICE FOR VIOLATIONS OF TRANSPORTING WASTE TIRES  
17 TO, AND ACCEPTING WASTE TIRES AT, AN UNPERMITTED  
18 WASTE TIRE FACILITY.  
19 ON MAY 12TH, 1998, I CONDUCTED A SITE  
20 VISIT OF THIS LOCATION. AT THAT TIME OF THE  
21 VISIT THE PROPERTY OWNER HAD PURCHASED A SHREDDER  
22 AND HAD BEGUN TO SHRED THE WASTE TIRES INTO  
23 PIECES, BUT HAD NOT REMOVED ANY OF THE WASTE  
24 TIRES FROM THE FACILITY.  
25 ON MAY 28TH, 1998, A WARNING LETTER

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1 WAS POSTED BY U.S. MAIL TO MR. EMMANUEL VARGAS, A  
2 CARBON COPY TO MR. JONES, NOTING THAT A  
3 CORRECTIVE ACTION PLAN HAD NOT BEEN RECEIVED, AND  
4 THAT THE OPERATOR HAD UNTIL JUNE 30TH, 1998, TO  
5 SUBMIT THIS PLAN.  
6 ON JULY 2ND, 1998, I RECEIVED A PLAN  
7 FROM THE VARGAS' WHICH STATED THAT HALF THE TIRES  
8 WOULD BE REMOVED BY DECEMBER OF 1998, AND THEY  
9 WOULD CONTINUE TO CUT THIS VOLUME UNTIL  
10 COMPLIANCE WAS MET. THIS HAS NOT BEEN DONE.  
11 THE CLEANUP AND ABATEMENT ORDER IS  
12 PREPARED, AND IS PENDING TO BE ISSUED TO THE  
13 OPERATOR AND PROPERTY OWNER FOR THE COMPLETE  
14 REMOVAL OF WASTE TIRES FROM THIS SITE.  
15 THIS PICTURE DEPICTS THE ENTRANCE WAY  
16 INTO THE IMPORT TIRES. THE TRAILER IN THE  
17 BACKGROUND IS THEIR OFFICE, AND IT'S ABOUT MAYBE  
18 AN EIGHT-FOOT WIDE STRETCH TO GET TO THE TRAILER.  
19 AGAIN THIS SHOWS GOING BACK, LOOKING  
20 BACK BEHIND YOU, THAT'S THE ENTRANCE WAY INTO THE  
21 FACILITY.  
22 THIS PARTICULAR PICTURE SHOWS THE  
23 LEA, WHO IS APPROXIMATELY SIX FEET TALL, IN FRONT  
24 OF THE WHITE FENCE. THIS SHOWS THE PILE IS  
25 APPROXIMATELY TWO TO THREE FEET TALLER THAN THIS

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1 INDIVIDUAL. IT GOES ALL THE WAY DOWN TO THE END  
2 OF THE WHITE FENCE WHICH IS, LIKE I SAID, IS  
3 ABOUT 240 FEET LONG, ABOUT 120 FEET WIDE, AND IN  
4 SOME SPOTS EIGHT OR NINE FEET HIGH.  
5 THIS IS MYSELF ON TOP OF A VEHICLE  
6 SHOWING AN OVERVIEW OF THE WASTE TIRE SITE INSIDE  
7 THE FACILITY. YOU CAN SEE TO THE LEFT THE  
8 OFFICE, OR THE TRAILER LOCATION, SHOWING ALL THE  
9 TIRES, AUTOMOBILES AND OTHER MATERIALS STREWN  
10 ABOUT. THERE WAS ABSOLUTELY NO WAY TO GO  
11 ANYWHERE IN THE FACILITY, ESPECIALLY WITH FIRE  
12 FIGHTING EQUIPMENT. SHOULD A FIRE OCCUR THERE  
13 WOULD BE NO WAY OF PUTTING OUT THAT FIRE WHEN --  
14 AT THE TIME OF THE INSPECTION.  
15 THAT CONCLUDES MY PRESENTATION ON THE  
16 IMPORT TIRES.  
17 OH. ALSO, THE CURRENT STATUS OF THIS  
18 CASE IS A CRIMINAL FILING HAS BEEN FILED, AND A  
19 PRETRIAL HAS BEEN SET FOR MARCH 23RD, 1998,  
20 AGAINST BOTH PARTIES OF IMPORT TIRES.  
21 MS. SMALL: THANK YOU, MR. CAMBRIDGE.  
22 THAT BASICALLY CONCLUDES THE BOARD'S  
23 PRESENTATION ON THIS MATTER. BASED ON MR.  
24 CAMBRIDGE'S TESTIMONY, I BELIEVE THAT WE CAN RELY  
25 ON THE ADMISSIONS THAT WERE MADE TO HIM BY THE

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1 PARTIES, THAT THEY DID, IN FACT, HAUL THE TIRES  
2 TO THIS SITE AS REGISTERED HAULERS. THE SITE IS  
3 NOT A PERMITTED SITE, AND HAS NO EXCLUSION OR  
4 EXEMPTION FOR OPERATION. THEREFORE, THEY ARE IN  
5 VIOLATION OF PUBLIC RESOURCES CODE SECTION  
6 42951(B). AND THE BOARD STAFF WOULD LIKE TO  
7 RECOMMEND THAT THE REFUSAL TO RE-REGISTER THESE  
8 PEOPLE WOULD BE UPHELD.

9 CHAIRMAN EATON: ARE THERE ANY QUESTIONS  
10 FOR THE WITNESSES, THESE WITNESSES?

11 MEMBER PENNINGTON: MR. CHAIRMAN?

12 CHAIRMAN EATON: MR. PENNINGTON.

13 MEMBER PENNINGTON: ARE EITHER ONE OF  
14 THESE FELLOWS AROUND? DO WE KNOW WHERE THEY ARE?

15 MR. CAMBRIDGE: THEY'RE IN LOS ANGELES  
16 RIGHT NOW. THEY HAVE NOT -- THEY'RE NOT A FLIGHT  
17 RISK, HOWEVER, THEY'RE CONTINUING TO, I BELIEVE,  
18 SHRED THE TIRES BUT THEY HAVE NOT REMOVED ANY OF  
19 THE TIRES FROM THE FACILITY.

20 CHAIRMAN EATON: ONCE AGAIN, INQUIRING  
21 THE AUDIENCE OR ANYONE WITHIN THE SOUND OF MY  
22 VOICE, IS THERE ANYONE HERE THAT WOULD LIKE TO  
23 SPEAK ON BEHALF OF IMPORT TIRES, OR REPRESENTING  
24 IMPORT TIRES AND/OR IS AUTHORIZED TO SPEAK ON  
25 BEHALF OF IMPORT TIRES IN RESPONSE TO THE STAFF

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1 PRESENTATION? HEARING NONE, I THINK FOR PURPOSES  
2 OF THIS HEARING WE'LL ASSUME THAT THERE IS NO  
3 TESTIMONY OR CONTRARY TESTIMONY BY THE  
4 DEFENDANTS.

5 MEMBER ROBERTI: MR. CHAIRMAN?

6 CHAIRMAN EATON: SENATOR ROBERTI.

7 MEMBER ROBERTI: I MOVE THAT WE ADOPT  
8 RESOLUTION 1999-72.

9 MEMBER JONES: I'LL SECOND.

10 CHAIRMAN EATON: I HAVE A MOTION BY  
11 SENATOR ROBERTI, A SECOND BY MR. JONES. MADAM  
12 SECRETARY, PLEASE CALL THE ROLL.

13 THE SECRETARY: BOARD MEMBERS FRAZEE?

14 MEMBER FRAZEE: AYE.

15 THE SECRETARY: JONES?

16 MEMBER JONES: AYE.

17 THE SECRETARY: PENNINGTON?

18 MEMBER PENNINGTON: AYE.

19 THE SECRETARY: ROBERTI?

20 MEMBER ROBERTI: AYE.

21 THE SECRETARY: CHAIRMAN EATON?

22 CHAIRMAN EATON: AYE.

23 MOTION PASSES.

24 AGENDA ITEM NO. 29: PUBLIC HEARING FOR THE  
25 CONSIDERATION OF DENIAL OF THE WASTE TIRE



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1 REGISTRATION FOR MB OPPORTUNITIES, WASTE TIRE

2 HAULER NO. 0107, AMADOR COUNTY

3 CHAIRMAN EATON: YOU'LL HAVE TO FORGIVE  
4 US FOR HAVING TO GO THROUGH THE PROCESS AGAIN,  
5 BUT THERE IS ANOTHER PUBLIC HEARING, AND IT NEEDS  
6 TO BE PROPERLY IDENTIFIED AND MOVED. AND NOW WE  
7 WILL MOVE TO ITEM NO. 29, WHICH IS A PUBLIC  
8 HEARING FOR THE CONSIDERATION OF DENIAL OF THE  
9 WASTE TIRE HAULER REGISTRATION FOR MB  
10 OPPORTUNITIES, WASTE TIRE HAULER NO. 0107 IN  
11 AMADOR COUNTY.

12 MADAM SECRETARY, PLEASE CALL THE  
13 ROLL.

14 THE SECRETARY: BOARD MEMBERS FRAZEE?

15 MEMBER FRAZEE: HERE.

16 THE SECRETARY: JONES

17 MEMBER JONES: HERE.

18 THE SECRETARY: PENNINGTON?

19 MEMBER PENNINGTON: HERE.

20 THE SECRETARY: ROBERTI?

21 MEMBER ROBERTI: AYE.

22 THE SECRETARY: CHAIRMAN EATON?

23 CHAIRMAN EATON: HERE.

24 AGAIN, LET ME TAKE A FEW MOMENTS TO  
25 QUICKLY EXPLAIN THE PROCESS. ALL THE WITNESSES

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1 HERE WILL BE SWORN IN ON ITEM 29 IN THE BOARD'S  
2 NOTICE BY THE COURT REPORTER ALL AT ONE TIME.  
3 THE BOARD'S LEGAL COUNSEL WILL THEN  
4 SET FORTH THE LEGAL FRAMEWORK AND THE GUIDELINES  
5 AND RULES BY WHICH WE WILL OPERATE THIS HEARING.  
6 THEREAFTER, THE WITNESSES ON BEHALF  
7 OF THE STAFF WILL MAKE A PRESENTATION REGARDING  
8 COMPLIANCE, NON-COMPLIANCE OR OTHER  
9 RECOMMENDATIONS. THEREAFTER, MB TIRES WILL BE  
10 GIVEN AN OPPORTUNITY TO MAKE A PRESENTATION IN  
11 RESPONSE TO THE BOARD'S PRESENTATION, BOARD STAFF  
12 PRESENTATION. AND THEREAFTER, THE STAFF CAN  
13 REBUT THAT.  
14 AFTER EACH AND EVERY ONE OF THESE  
15 PRESENTATIONS BOARD MEMBERS MAY INQUIRE OF THE  
16 WITNESSES.  
17 NOW I WILL ASK THAT EACH AND EVERY  
18 WITNESS IN THIS PROCEEDING, BOTH ON BEHALF OF THE  
19 BOARD AS WELL AS MB OPPORTUNITIES, STAND AND BE  
20 SWORN IN.  
21 WHEREUPON,  
22 ALL PARTIES DESCRIBED ABOVE,  
23 HAVING BEEN FIRST DULY SWORN, DID TESTIFY AS  
24 FOLLOWS.  
25 CHAIRMAN EATON: COUNSEL MAY BEGIN.

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1 MS. SMALL: THANK YOU. CHAIRMAN, BOARD  
2 MEMBERS, MY NAME, IS SUZANNE SMALL, AND I AM HERE  
3 ON BEHALF OF THE WASTE TIRE HAULER PROGRAM TO  
4 PRESENT THIS HEARING INFORMATION.  
5 BRIEFLY, THIS HEARING WAS REQUESTED  
6 BY MB OPPORTUNITIES BASED ON THE WASTE BOARD'S  
7 DENIAL OF ITS WASTE TIRE HAULER APPLICATION.  
8 THE BOARD IS AUTHORIZED UNDER PUBLIC  
9 RESOURCES CODE SECTION 42950 AND THE FOLLOWING TO  
10 REGISTER WASTE TIRE HAULERS THAT HAUL MORE THAN  
11 FOUR WASTE TIRES AT A TIME.  
12 THIS REGISTRATION, BY REGULATION,  
13 MUST BE RENEWED YEARLY, AND THAT IS PROVIDED IN  
14 14 CALIFORNIA CODE OF REGULATIONS SECTION 18455.  
15 IN THIS PARTICULAR MATTER MR. BALL IS  
16 ACTING ON BEHALF OF MB OPPORTUNITIES, AND FILED  
17 AN APPLICATION FOR A RENEWAL OF HIS WASTE TIRE  
18 HAULER REGISTRATION. HOWEVER, IT WAS DENIED  
19 BASED ON HIS REOCCURRING VIOLATIONS WITH REGARD  
20 TO THIS MATTER, AND HIS FAILURE TO CURE THOSE  
21 VIOLATIONS BY PAYING PENALTIES THAT HAVE BEEN  
22 IMPOSED.  
23 THE CIWMB IS AUTHORIZED, AT PUBLIC  
24 RESOURCE CODE SECTION 42959 AND 42960, TO REFUSE  
25 TO RENEW OR ISSUE A WASTE TIRE HAULER

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1 REGISTRATION BASED ON THE FOLLOWING PROVISIONS:  
2 COMMISSION OF ANY VIOLATION OR A FAILURE TO  
3 COMPLY WITH ANY REQUIREMENT OF THE CHAPTER  
4 REGULATING WASTE TIRE HAULERS; AIDING, ABETTING,  
5 OR PERMITTING ANY VIOLATION OF THAT CHAPTER;  
6 AIDING, ABETTING, OR PERMITTING FAILURE TO COMPLY  
7 WITH THAT CHAPTER; IF THE FAILURE OF COMPLIANCE  
8 SHOWS A REPEATING OR REOCCURRING OCCURRENCE; OR  
9 POSES A THREAT TO PUBLIC HEALTH OR SAFETY OR THE  
10 ENVIRONMENT; AND COMMISSION OF ANY  
11 MISREPRESENTATION OR OMISSION OF A SIGNIFICANT  
12 FACTOR OTHER REQUIRED INFORMATION IN THE  
13 APPLICATION FOR THE WASTE TIRE HAULER  
14 REGISTRATION.  
15 UNDER PUBLIC RESOURCES CODE SECTION  
16 42961 THIS DENIAL MAY BE APPEALED IN A HEARING,  
17 WHICH HAS BEEN REQUESTED BY MR. BALL.  
18 AT THIS TIME I WOULD LIKE TO BRIEFLY  
19 TESTIFY JUST TO AUTHENTICATE SOME DOCUMENTS THAT  
20 ARE OF LEGAL NATURE, •AND I WILL DO THAT IN  
21 SEQUENCE.  
22 ATTACHMENT 5 IS A TRUE AND CORRECT  
23 COPY OF AN ADMINISTRATIVE COMPLAINT THAT I FILED  
24 AGAINST MR. BALL. I MAINTAIN THE ORIGINAL OF  
25 THAT COMPLAINT IN MY OFFICIAL LEGAL FILE.

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1 ATTACHMENT NO. 6 IS A TRUE AND  
2 CORRECT COPY OF THE OFFICIAL DECISION THAT WAS  
3 RENDERED BASED ON THE COMPLAINT ATTACHED AS  
4 NUMBER FIVE, AND I MAINTAIN THE ORIGINAL OF THAT  
5 DOCUMENT IN MY FILE, THE OFFICIAL FILE FOR THE  
6 CIWMB.  
7 ATTACHMENT NO. 7 IS A TRUE AND  
8 CORRECT COPY OF THE AMENDED ADMINISTRATIVE  
9 COMPLAINT FILED AGAINST MR. BALL IN THE SECOND  
10 CASE THAT WE PURSUED AGAINST HIM. I MAINTAIN THE  
11 ORIGINAL OF THAT COMPLAINT IN MY FILE.  
12 AND ATTACHMENT NO. 8 IS THE DECISION  
13 THAT WAS ISSUED BASED ON THE COMPLAINT ATTACHED  
14 AS NUMBER SEVEN, AND I MAINTAIN THE ORIGINAL OF  
15 THAT DOCUMENT IN MY FILE.  
16 THE FILES I MAINTAIN WITH REGARD TO  
17 WASTE TIRE HAULER PENALTY HEARINGS ARE THE  
18 OFFICIAL FILES MAINTAINED ON BEHALF OF THE BOARD,  
19 AND I AM FAMILIAR WITH THE CONTENTS OF THOSE  
20 FILES.  
21 AT THIS TIME I'D LIKE TO HAVE MS.  
22 AMALIA FERNANDEZ TESTIFY.  
23 COULD YOU PLEASE STATE YOUR FULL NAME  
24 FOR THE RECORD?  
25 MS. FERNANDEZ: AMALIA FERNANDEZ.

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1 MS. SMALL: AND ARE YOU PRESENTLY

2 EMPLOYED?

3 MS. FERNANDEZ: YES.

4 MS. SMALL: AND BY WHICH ENTITY ARE YOU

5 EMPLOYED?

6 MS. FERNANDEZ: CIWMB.

7 MS. SMALL: AND WHAT ARE YOUR DUTIES WITH

8 THE CIWMB?

9 MS. FERNANDEZ: I WORK WITH THE WASTE

10 TIRE REGISTRATION PROGRAM.

11 MS. SMALL: AND WHAT ARE YOUR DUTIES IN

12 THAT POSITION?

13 MS. FERNANDEZ: I AM THE EMPLOYEE THAT

14 RECEIVES AND REVIEWS THE WASTE TIRE REGISTRATION

15 APPLICATIONS, MAINTAINS THE OFFICIAL CIWMB

16 RECORDS FOR THE WASTE TIRE HAULER PROGRAM. THIS

17 INCLUDES THE RECORDS FOR THE VEHICLES REGISTERED

18 BY THE HAULERS, THE BONDING INFORMATION, THE

19 HISTORY OF THE HAULERS, AND VARIOUS ITEMS OF

20 CORRESPONDENCE REGARDING VARIOUS WASTE TIRE

21 HAULERS. I MAINTAIN THE OFFICIAL FILES OF THE

22 CIWMB REGARDING WASTE TIRE HAULER REGISTRATION,

23 AND I'M FAMILIAR WITH THE CONTENTS OF THOSE

24 FILES. I ALSO MAINTAIN THE OFFICIAL DATABASE FOR

25 THOSE WASTE TIRE HAULERS ON THE CIWMB COMPUTER

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1 SYSTEM.

2 MS. SMALL: CAN YOU PLEASE IDENTIFY FOR  
3 ME ATTACHMENT 1 TO THE AGENDA ITEM NO. 29 FOR  
4 TODAY'S BOARD MEETING?

5 MS. FERNANDEZ: THAT IS A WASTE TIRE  
6 HAULER INFORMATION SHEET WHICH IS MAINTAINED IN  
7 THE CIWMB WASTE TIRE HAULER COMPUTER SYSTEM.  
8 THAT INFORMATION IS A COMPOSITE FORM OF THE  
9 DOCUMENTS THAT HAVE BEEN SUBMITTED WITH OR IN  
10 REFERENCE TO THE WASTE TIRE HAULER REGISTRATION  
11 ISSUED TO MB OPPORTUNITIES. THIS IS A TRUE AND  
12 CORRECT COPY OF THE ORIGINAL INFORMATION  
13 MAINTAINED IN THE OFFICE FILE AT THE CIWMB.

14 MS. SMALL: CAN YOU PLEASE IDENTIFY FOR  
15 ME ATTACHMENT 2 TO AGENDA ITEM NO. 29 FOR TODAY'S  
16 BOARD MEETING?

17 MS. FERNANDEZ: THAT IS A TRUE AND  
18 CORRECT COPY OF THE WASTE TIRE HAULER  
19 REGISTRATION APPLICATION RECEIVED BY THE CIWMB  
20 FOR MB OPPORTUNITIES. THE ORIGINAL OF THAT  
21 DOCUMENT IS MAINTAINED IN THE CIWMB OFFICIAL  
22 FILE. I AM PERSONALLY FAMILIAR WITH THE OFFICIAL  
23 FILE.

24 MS. SMALL: CAN YOU PLEASE IDENTIFY FOR  
25 ME ATTACHMENT NO. 3 TO THE AGENDA ITEM NO. 29 FOR

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1 TODAY'S BOARD MEETING?

2 MS. FERNANDEZ: THAT IS A TRUE AND  
3 CORRECT COPY OF A LETTER SIGNED BY MR. CODY  
4 BEGLEY, SUPERVISOR IN THE WASTE TIRE PROGRAM, FOR  
5 BERNARD VLACH, MANAGER OF THE FACILITIES  
6 OPERATIONS BRANCH OF THE PERMITTING AND  
7 ENFORCEMENT DIVISION, TO MR. MIKE BALL OF MB  
8 OPPORTUNITIES. THAT LETTER INFORMS MR. BALL THAT  
9 THE WASTE TIRE HAULER REGISTRATION APPLICATION  
10 WAS DENIED AND THAT HE'S ENTITLED TO A HEARING  
11 BEFORE THE BOARD. THIS IS A TRUE AND CORRECT  
12 COPY OF THE COPY OF THIS LETTER MAINTAINED IN THE  
13 CIWMB OFFICE FILE.

14 MS. SMALL: CAN YOU PLEASE IDENTIFY FOR  
15 ME ATTACHMENT NO. 4 TO THE AGENDA ITEM 28 FOR  
16 TODAY'S BOARD MEETING?

17 MS. FERNANDEZ: THAT IS A TRUE AND  
18 CORRECT COPY OF A LETTER RECEIVED BY THE CIWMB  
19 REQUESTING A HEARING FOR MB OPPORTUNITIES TO  
20 CONTEST THE DENIAL OF THE WASTE TIRE HAULER  
21 REGISTRATION. THE ORIGINAL OF THAT LETTER IS  
22 MAINTAINED IN THE CIWMB OFFICIAL FILE.

23 MS. SMALL: THANK YOU FOR YOUR TESTIMONY,  
24 MS. FERNANDEZ.  
25 MR. CAMBRIDGE, COULD YOU PLEASE STATE



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1 YOUR FULL NAME FOR THE RECORD?

2 MR. CAMBRIDGE: KEITH CAMBRIDGE.

3 MS. SMALL: AND ARE YOU PRESENTLY

4 EMPLOYED?

5 MR. CAMBRIDGE: YES, I AM.

6 MS. SMALL: BY WHICH ENTITY?

7 MR. CAMBRIDGE: THE CALIFORNIA INTEGRATED

8 WASTE MANAGEMENT BOARD.

9 MS. SMALL: AND WHAT ARE YOUR DUTIES FOR

10 THE INTEGRATED WASTE MANAGEMENT BOARD?

11 MR. CAMBRIDGE: TO CONDUCT INSPECTIONS

12 AND INVESTIGATIONS OF WASTE TIRE HAULERS AND

13 WASTE TIRE FACILITIES.

14 MS. SMALL: AND HOW LONG HAVE YOU BEEN

15 MAINTAINED IN THAT POSITION?

16 MR. CAMBRIDGE: SINCE NOVEMBER, 1993.

17 MS. SMALL: AND CAN YOU PLEASE GIVE ME AN

18 ESTIMATION HOW MANY WASTE TIRE INVESTIGATIONS

19 YOU'VE DONE IN THAT POSITION?

20 MR. CAMBRIDGE: APPROXIMATELY 350

21 INVESTIGATIONS.

22 MS. SMALL: WITH REGARD TO THAT POSITION,

23 HAVE YOU BECOME FAMILIAR WITH MB OPPORTUNITIES

24 AND MR. MIKE BALL?

25 MR. CAMBRIDGE: YES, I HAVE.

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1 MS. SMALL: COULD YOU PLEASE NOW PROVIDE  
2 THE INFORMATION THAT YOU PREPARED FOR THIS ITEM?  
3 MR. CAMBRIDGE: OKAY. THIS'LL BE  
4 PRESENTED IN TWO DIFFERENT SEGMENTS. THE FIRST - 5 - THERE'S TWO  
5 SITES INVOLVED. THE FIRST SITE  
6 I'LL BE TALKING ABOUT IS THE WEST CLINTON WASTE  
7 TIRE SITE.  
8 ON MARCH 27TH, 1996, MIKE KEFFER OF  
9 THE WASTE BOARD RECEIVED A PHONE CALL FROM  
10 MARGARET BLOOD OF THE AMADOR COUNTY HEALTH  
11 DEPARTMENT THAT MR. BALL OF MB OPPORTUNITIES WAS  
12 STORING WASTE TIRES AT THE RESIDENCE LOCATED AT  
13 18231 WEST CLINTON ROAD, AMADOR COUNTY.  
14 ON APRIL 1ST, 1996, MR. KEFFER AND I,  
15 ACCOMPANIED BY MS. BLOOD, CONDUCTED A WASTE TIRE  
16 INVESTIGATION OF THIS SITE. I ESTIMATED THAT  
17 THERE WAS MORE THAN 7,000 TIRES AT THE  
18 RESIDENCE. VIOLATIONS NOTED WERE 17351, WHICH  
19 WOULD BE FIRE PREVENTION MEASURES, 17352, WHICH  
20 WOULD BE FACILITY ACCESS AND SECURITY, 17353  
21 WOULD BE VECTOR CONTROL MEASURES, AND 17354,  
22 WASTE TIRE STORAGE MEASURES.  
23 MR. BALL STATED THAT HE HAD BROUGHT  
24 THESE WASTE TIRES TO THIS LOCATION DURING THE  
25 PAST SEVERAL MONTHS PRIOR TO OUR VISIT.

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1 ON APRIL 11TH, 1996, A LETTER OF  
2 VIOLATION WAS POSTED BY U.S. MAIL TO MR. BALL,  
3 WHICH CITED THE VIOLATIONS OBSERVED DURING THE  
4 APRIL 1ST, 1996, INSPECTION, AND REQUESTED A  
5 CORRECTIVE ACTION PLAN TO BE SUBMITTED BY MAY  
6 15TH, 1996.

7 ON MAY 12TH, 1996, WE RECEIVED A  
8 CORRECTIVE ACTION PLAN FROM MR. BALL. IN THIS  
9 PLAN MR. BALL STATED THAT ALL TIRES WOULD BE  
10 REMOVED FROM THE SITE WITHIN 90 DAYS.

11 FOLLOWING THAT, ON JUNE 3RD, 1996, I  
12 SENT A LETTER BACK TO MR. BALL WHICH STATED THAT  
13 HIS PLAN WAS UNSATISFACTORY AND THE DEADLINE OF  
14 JUNE 21ST, 1996, WOULD BE GRANTED TO REMOVE ALL  
15 THE TIRES FROM THE SITE. THE MAJOR REASON BEING,  
16 IS THE LOCATION OF THIS FACILITY WAS IN A HILLY  
17 TERRAIN IN A RESIDENTIAL AREA WITH AN EXTREME  
18 FIRE DANGER WITH THE UPCOMING SUMMER MONTHS.

19 ON JUNE 21ST, 1996, I CONDUCTED A  
20 SITE VISIT ACCOMPANIED BY MICHAEL ISRAEL OF THE  
21 AMADOR COUNTY HEALTH DEPARTMENT. SOME TIRES HAD  
22 BEEN REMOVED BUT, HOWEVER, 6,000 TIRES REMAINED  
23 ON SITE.

24 I HAD INFORMED MR. BALL DURING  
25 PREVIOUS VISITS TO DISCONTINUE THE ACCEPTANCE OF

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1 WASTE TIRES AT HIS RESIDENCE. ON THAT DATE,  
2 ACCORDING TO HIS MOTHER, MR. BALL STILL WAS  
3 TRANSPORTING SOME WASTE TIRES TO THAT SITE.  
4 ON JULY 3RD, 1996, THE BOARD ISSUED A  
5 CLEANUP AND ABATEMENT ORDER 96 22 TO MR. BALL.  
6 ALL WASTE TIRES WERE TO BE REMOVED FORM THE SITE  
7 BY JULY 31ST, 1996.  
8 ON AUGUST 22ND, 1996, MYSELF, MR.  
9 KEFFER, AND MS. BLOOD CONDUCTED A VISIT OF THIS  
10 LOCATION. APPROXIMATELY 1,000 TIRES AND TIRE  
11 EQUIVALENTS STILL REMAINED ON SITE. MR. BALL  
12 ASSURED US THAT ALL REMAINING TIRES WOULD BE  
13 REMOVED WITHIN THE NEXT TWO WEEKS.  
14 ON AUGUST 26TH, 1996, AN  
15 ADMINISTRATIVE COMPLAINT 96-29A WAS ISSUED. THE  
16 COMPLAINT ALLEGED THAT MR. BALL TRANSPORTED TIRES  
17 TO AN UNPERMITTED LOCATION, HIS MOTHER'S  
18 RESIDENCE.  
19 A HEARING WAS CONDUCTED AND DECISION  
20 CONCERNING THIS OPERATOR AND THE FAILURE TO  
21 REMOVE THE TIRES IN A TIMELY MANNER. THE  
22 OPERATOR WAS ASSESSED A PENALTY OF \$1,000, AND  
23 WHICH HE HAS FAILED TO PAY.  
24 I WILL ADD THAT THE OPERATOR HAS  
25 REMOVED ALL THE WASTE TIRES FROM THE SITE.

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1 THIS DEPICTS THE -- ON THE INITIAL,  
2 APRIL 1ST, 1996, INVESTIGATION WHAT THE SITE  
3 APPEARED LIKE.  
4 ANOTHER SHOT.  
5 THIS IS ABOVE THE FACILITY, TO THE  
6 UPPER LEFT-HAND CORNER YOU CAN SEE THE RESIDENCE,  
7 BUT THESE ARE WASTE TIRES BEING STORED IN THE  
8 BACK YARD. AGAIN, DUE TO THE PROXIMITY OF THE  
9 AMOUNT OF TREES AND VEGETATIVE GROWTH, WE WERE  
10 CONCERNED WITH THE UPCOMING SUMMER THIS COULD  
11 POTENTIALLY BE AN EXTREME FIRE HAZARD.  
12 THAT CONCLUDES THE WEST CLINTON WASTE  
13 TIRE SITE REPORT.

14 MS. SMALL: MR. CAMBRIDGE, DID YOU TAKE  
15 THESE PHOTOGRAPHS?

16 MR. CAMBRIDGE: YES, I DID.

17 MS. SMALL: DO THEY ACCURATELY DEPICT  
18 WHAT YOU OBSERVED?

19 MR. CAMBRIDGE: YES, THEY DO.

20 MS. SMALL: AND ARE YOU PERSONALLY  
21 FAMILIAR WITH THE TESTIMONY THAT YOU ARE GIVING  
22 AT THIS TIME?

23 MR. CAMBRIDGE: YES, I AM.

24 MS. SMALL: PLEASE CONTINUE.

25 MR. CAMBRIDGE: OKAY. IF I CAN HAVE THE

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1 FOLLOWING SLIDE?  
2 THE NEXT SITE, WHICH WE CALL FINE AND  
3 SONS, IS AN AUTO DISMANTLE YARD LOCATED IN MARTEL  
4 (PHON), CALIFORNIA.  
5 ON APRIL 1ST, 1996, AGAIN, MR. KEFFER  
6 AND I, ACCOMPANIED BY MS. BLOOD OF THE AMADOR  
7 COUNTY HEALTH DEPARTMENT, CONDUCTED A WASTE TIRE  
8 FACILITY INSPECTION AT FINE AND SONS WASTE TIRE  
9 SITE AND DOCUMENTED VIOLATIONS. AGAIN, AS NOTED  
10 IN THE WEST CLINTON SITE. WE HAD FIRE PREVENTION  
11 MEASURE VIOLATIONS, FACILITY ACCESS AND SECURITY,  
12 VECTOR MEASURE VIOLATIONS, AND WASTE TIRE STORAGE  
13 STANDARD VIOLATIONS. I ESTIMATED THERE WERE MORE  
14 THAN 10,000 TIRES AT THIS LOCATION.  
15 ON APRIL 11TH, 1996, AGAIN I SENT A  
16 LETTER OF VIOLATION ADDRESSED AND POSTED BY U.S.  
17 MAIL TO MIKE BALL, THE OPERATOR, AND ALSO CARBON  
18 COPIED A COPY TO MR. WILLIAM FINE, THE PROPERTY  
19 OWNER, REQUESTING THAT A CORRECTIVE ACTION PLAN  
20 BE SUBMITTED TO THE BOARD BY MAY 15TH, 1996.  
21 ON MAY 12TH, 1996, A WRITTEN PLAN  
22 AGAIN WAS RECEIVED FROM MR. BALL, WHICH STATED  
23 THAT HE NEEDED 90 DAYS TO REMOVE THE TIRES FROM  
24 THE SITE.  
25 ON JUNE 3RD, 1996, I SENT A LETTER

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1 BACK TO MR. BALL, CARBON COPY TO MR. FINE,  
2 STATING THAT THE 90-DAY REQUIREMENT WAS  
3 SATISFACTORY, AND WE GRANTED UNTIL AUGUST 15TH,  
4 1996, TO REMOVE ALL THE WASTE TIRES FROM THIS  
5 SITE.  
6 ON JUNE 21ST, 1996, I CONDUCTED A  
7 SITE VISIT OF FINE AND SONS WASTE TIRE SITE AND  
8 DOCUMENTED THAT SOME WORK HAD BEEN PERFORMED, BUT  
9 THE CONTINUING VIOLATION STILL EXISTED.  
10 ON AUGUST 22ND, 1996, MIKE KEFFER AND  
11 I CONDUCTED ANOTHER SITE VISIT OF FINE AND SONS  
12 TIRE, AND STILL DOCUMENTED THE AFOREMENTIONED  
13 VIOLATIONS.  
14 ON NOVEMBER 18TH, 1996, CLEANUP AND  
15 ABATEMENT ORDER 96 40 WAS ISSUED BY THE BOARD TO  
16 MR. BALL, AND ALSO TO MR. WILLIAM FINE,  
17 REQUESTING THAT AT LEAST 5,000 WASTE TIRES BE  
18 REMOVED BY DECEMBER 31ST, 1996. THE REMAINING  
19 WASTE TIRES WERE TO BE REMOVED BY FEBRUARY 28TH,  
20 1997.  
21 ADDITIONALLY, WE REQUIRED COPIES OF  
22 DESTINATION RECEIPTS AND WASTE TIRE MANIFESTS TO  
23 BE SUBMITTED TO THE BOARD ON OR BEFORE JANUARY 7  
24 AND MARCH 7, 1997, RESPECTIVELY.  
25 ON MAY 2ND, 1997, I CONDUCTED ANOTHER

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1 SITE VISIT OF THE FINE AND SONS WASTE TIRE SITE  
2 AND STILL DOCUMENTED CONTINUING VIOLATIONS.  
3 ON JULY 22ND, 1997, ADMINISTRATIVE  
4 COMPLAINT NO. 97-24AC WAS ISSUED. THIS COMPLAINT  
5 ALLEGED THAT MR. BALL TRANSPORTED TO AN  
6 UNPERMITTED LOCATION, THE FINE AND SONS AUTO  
7 DISMANTLERS.  
8 A HEARING WAS CONDUCTED AND A  
9 DECISION CONCERNING THIS OPERATOR WAS MADE FOR  
10 THE FAILURE TO REMOVE TIRES IN A TIMELY MANNER.  
11 A PENALTY OF \$9,000 WAS ASSESSED TO BOTH PARTIES.  
12 THE OPERATOR HAS FAILED TO PAY THIS PENALTY.  
13 THE OPERATOR, I WILL ALSO ADD, HAS  
14 ALSO REMOVED THE TIRES FROM THIS SITE.  
15 THIS SLIDE DEPICTS SOME OF THE TIRES  
16 THAT I OBSERVED ON THE INITIAL DATES AS FAR AS  
17 THE TIRES ON THE FINE AND SONS PROPERTY.  
18 ANOTHER SHOT OF A DIFFERENT LOCATION,  
19 DIFFERENT TIRES ON THE PROPERTY. AGAIN, THERE'S  
20 APPROXIMATELY 10,000 TIRES THERE.  
21 THIS CONCLUDES MY PRESENTATION  
22 AGAINST MB OPPORTUNITIES.  
23 MS. SMALL: MR. CAMBRIDGE, AGAIN, DID YOU  
24 TAKE THESE PHOTOGRAPHS AT FINE AND SONS?  
25 MR. CAMBRIDGE: YES, I DID.



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1 MS. SMALL: AND DO THEY ACCURATELY DEPICT  
2 WHAT YOU OBSERVED WHEN YOU WERE AT FINE AND SONS?

3 MR. CAMBRIDGE: YES, THEY DO.

4 MS. SMALL: DID YOU TESTIFY AT BOTH OF  
5 THE HEARINGS THAT YOU HAVE REFERENCED IN YOUR  
6 TESTIMONY TODAY?

7 MR. CAMBRIDGE: YES, I DID.

8 MS. SMALL: THANK YOU VERY MUCH FOR YOUR  
9 TESTIMONY.

10 AT THIS POINT I WOULD LIKE TO MAKE  
11 SURE THAT --

12 MEMBER JONES: ARE WE ABLE TO ASK  
13 QUESTIONS OF THE WITNESSES?

14 CHAIRMAN EATON: YES.

15 MS. SMALL: I'D LIKE TO BE SURE THAT THE  
16 BOARD MEMBERS HAVE RECEIVED COPIES OF WHAT MR.  
17 BALL HAD SUBMITTED AS A STATEMENT OF HIS POSITION  
18 WITH REGARD TO THIS HEARING. HE HAD MAILED THAT  
19 IN. AND THERE ARE COPIES AVAILABLE AT THE BACK  
20 OF THE ROOM ON THE TABLE, BUT I JUST WANTED TO  
21 MAKE SURE THAT ALL THE BOARD MEMBERS DID HAVE  
22 COPIES OF THAT.

23 CHAIRMAN EATON: IS THAT THE HANDWRITTEN  
24 DOCUMENT DATED 2/8-99?

25 MS. SMALL: THAT'S CORRECT.

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1           CHAIRMAN EATON: I BELIEVE WE ALL HAVE IT  
2 IN OUR PACKET, BUT I DON'T....

3           MS. SMALL: OKAY. AND FOR CLARIFICATION  
4 WITH REGARD TO THE PENALTY PAYMENT, AT THIS POINT  
5 MR. BALL HAS SUBMITTED APPROXIMATELY \$500 IN  
6 PAYMENT OF HIS PENALTIES.

7           MEMBER PENNINGTON: AND WHAT WAS THE  
8 TOTAL OF HIS PENALTIES?

9           MS. SMALL: THE TOTAL OF HIS PENALTY  
10 OWING AT THIS POINT IS APPROXIMATELY \$12,000 — 11 EXCUSE ME,  
\$10,000.

12          CHAIRMAN EATON: MR. JONES.

13          MEMBER JONES: MR. CAMBRIDGE, ON THE FINE  
14 AND SONS PROPERTY, WERE ALL THOSE TIRES DELIVERED  
15 BY BALL?

16          MR. CAMBRIDGE: TALKING TO MR. BALL, NOT  
17 ALL THE TIRES WERE HIS, ACCORDING TO MR. BALL. I  
18 DON'T KNOW EXACTLY THE TOTAL AMOUNT. MR. BALL  
19 HAS SUBMITTED THAT HE HAS TRANSPORTED, I BELIEVE,  
20 400-AND-SOME-ODD TIRES TO THAT LOCATION.

21          MEMBER JONES: BECAUSE THIS WAS AT A  
22 WRECKING YARD.

23          MR. CAMBRIDGE: RIGHT.

24          MEMBER JONES: THAT OPERATED FOR A LONG  
25 TIME.

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1 MR. CAMBRIDGE: RIGHT. AND ADDITIONALLY  
2 TO THAT WRECKING YARD, THERE IS ADDITIONAL  
3 PROBLEMS MR. BALL HAD POINTED OUT TO THE BOARD  
4 THAT WE INVESTIGATED, AND ACTUALLY FILED CRIMINAL  
5 CHARGES AGAINST MR. FINE AND ANOTHER GENTLEMAN  
6 WHO TRANSPORTED TIRES THERE AS WELL.

7 MEMBER JONES: I THINK THAT'S IMPORTANT  
8 ON THIS ONE, BECAUSE THAT WAS UP FOR A TIRE -- A  
9 BOARD TIRE CLEANUP PROGRAM THAT WE SAID NO TO,  
10 SAID HAVE THE -- MR. FINE CLEAN UP THE MESS. AND  
11 I GUESS MR. FINE AND MR. BALL CLEANED UP THE  
12 MESS.

13 MR. CAMBRIDGE: ACTUALLY, I BELIEVE IT  
14 WAS JUST MR. BALL THAT CLEANED UP THE MESS.

15 MEMBER JONES: JUST MR. BALL? THAT  
16 DOESN'T SURPRISE ME, I USED TO WORK IN TUOLUMNE  
17 COUNTY AND UNDERSTAND THAT.  
18 THERE WAS A LETTER -- WELL, I'LL ASK  
19 IT LATER, I SAW IT AND I WANTED TO.... I'M DONE,  
20 THANKS.

21 CHAIRMAN EATON: ANY OTHER QUESTIONS OF  
22 STAFF OR COUNSEL?  
23 HEARING NONE, I'LL ASK IF ANYONE HERE  
24 FROM MB OPPORTUNITIES, MR. BALL OR OTHERWISE,  
25 WOULD LIKE TO MAKE THEIR CASE?

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1 WELCOME, AND IF YOU'D BE KIND ENOUGH  
2 TO STATE YOUR NAME FOR THE RECORD?  
3 MR. BALL: MY NAME IS MIKE BALL, I'M THE  
4 OWNER OF MB OPPORTUNITIES.  
5 WE ORIGINALLY STARTED COLLECTING  
6 TIRES IN APPROXIMATELY 1989, AND WE WERE TAKING  
7 THEM OUT TO MY HOUSE AT THE TIME. WE DID NOT  
8 KNOW WHAT WE WERE DOING. WE WEREN'T DOING  
9 ANYTHING CRIMINAL, OTHERWISE WE WOULD HAVE JUST  
10 DUMPED THEM IN THE THOUSANDS OF MINE SHAFTS THAT  
11 WERE AROUND.  
12 CAN YOU REVERT BACK TO THE WEST  
13 CLINTON ROAD PICTURE? I WOULD LIKE TO POINT  
14 OUT.... OUR HOUSE IS SURROUNDED -- OR, ON THE  
15 UPPER SIDE HAS A WATER CANAL, AND WE ALSO HAVE  
16 IRRIGATION IN THERE. AND AS FAR AS A FIRE  
17 DAMAGE, WE DIDN'T THINK WE WERE DOING ANYTHING  
18 WRONG. THE DITCH IS RIGHT HERE, IT GOES ALL  
19 ALONG THE CREEK. IT'S 14 MILES LONG, IT FEEDS  
20 JACKSON'S WATER SUPPLY.  
21 WE STARTED THERE AND WE STARTED DOING  
22 JOBS FOR THE COUNTY WITH THE INTEGRATED WASTE  
23 MANAGEMENT BOARD. THEN WE CAME DOWN HERE AND  
24 APPLIED FOR A MINOR TIRE FACILITY PERMIT AT THE  
25 FINES' WRECKING YARD.

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1 AT THE TIME THAT I STARTED AT THE  
2 WRECKING YARD THE PLACE WAS A COMPLETE, TOTAL  
3 MESS. THE PICTURES THAT YOU SEE -- YOU COULD NOT  
4 SEE. THERE. WAS CARS -- YOU CAN IMAGINE FOR 50  
5 YEARS -- THESE GUYS ARE DRUG ADDICTS, THEY WERE  
6 RUNNING A METH LAB AT THE PLACE DURING THE TIME I  
7 HAD -- WHAT CAN I SAY? WE GOT SET UP BAD.

8 CHAIRMAN EATON: NO FIRE DANGER THERE.

9 MR. BALL: NO, SIR. NO, SIR.

10 WE WENT TO THE POLICE -- TO THE  
11 SHERIFF'S OFFICE APPROXIMATELY 12 TIMES  
12 COMPLAINING, AND THEY WOULD NOT DO NOTHING. WE  
13 WENT TO THE DISTRICT ATTORNEY'S OFFICE TWO TIMES,  
14 THE SECOND TIME I WAS ASKED TO LEAVE OR I WOULD -  
15 - I WAS OUT OF CONTROL, I WAS BEING ROBBED EVERY  
16 SINGLE DAY. MR. FINE WAS COLLECTING MONEY FOR  
17 TIRES AND DUMPING THEM ON MY PILE.  
18 WE HAULED INTO THE FINES' WRECKING  
19 YARD 536 TONS OF TIRES TOTAL, WE HAULED OUT 1,113  
20 TONS. HE MADE MORE MONEY THAN I EVER THOUGHT  
21 ABOUT MAKING.

22 HE ABSOLUTELY HAS BEEN NO HELP  
23 CLEANING IT UP. DURING THE HEARING WHERE THEY  
24 WERE -- THEY TOLD US IF WE HAD IT CLEANED UP A  
25 CERTAIN TIME IT WOULD BE \$1,000, IF WE DIDN'T IT

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1 WOULD BE \$9,000. MR. FINE WAS HECKLING ME DURING  
2 THE WHOLE PROCESS SAYING THIS IS ALL YOUR FAULT,  
3 YOU KNOW, YOU'LL -- AND IT WAS NOT FAIR.  
4 I SPOKE ALL THROUGH THE HEARING THAT  
5 THIS -- THE TIRES WERE NOT MINE. AND AT THE END  
6 WHEN IT CAME TO CLOSING STATEMENTS I HAD NOTHING  
7 TO SAY, I HAD BEEN SAYING IT ALL THROUGH THE  
8 HEARING.  
9 WHAT I WOULD LIKE IS TO BE REINSTATED  
10 AS A TIRE HAULER, TO HAVE THE FINE AT THE FINES'  
11 WRECKING YARD REDUCED FROM 9,000 TO 1,000. I  
12 CLEANED UP THE MESS WITH NO HELP FROM MR. FINE.  
13 AND MAKE THE PAYMENTS, PAY THE 1,000 THAT I WAS  
14 CHARGED AT MY HOUSE, EVERYTHING'S CLEAN.  
15 WE HAVE A USED TIRE STORE NOW, WE'RE  
16 INTO CRUMB RUBBER, A VERY SMALL PROGRAM. WE  
17 SHRED OUR OWN TIRES, WE -- OUR ROUTE GOES BETWEEN  
18 ELDORADO AND BIG OAK FLAT. AND WE'RE CURRENTLY  
19 NOW DOING A MAJOR CLEANUP AT THE HATLER MILL IN  
20 COLUMBIA, WHICH IS -- YOU MAY KNOW IS QUITE A  
21 MESS. THE GUY THAT PAYS THE BILL, BUD HATLER,  
22 JUST HAD A HEART ATTACK THE OTHER DAY -- AND NO,  
23 IT WASN'T FROM MY BILL, IT WAS --  
24 MEMBER JONES: BECAUSE HE HAD TO SPEND  
25 MONEY --

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1           MR. BALL: I REALIZE THAT. THAT'S RIGHT -  
2 -- THAT'S ON HIS FINISH  
3 WORK, THAT IS THE FINISH WORK.  
4 WE HAVE SEVERAL LARGE -- WE WORK FOR  
5 COLUMBIA, BLUE MOUNTAIN QUARRIES, WE TAKE CARE OF  
6 ALL THE VERY LARGE TIRES. WE DO TIRES FROM  
7 BICYCLE-SIZE TO EARTH-MOVER-SIZE. WE PROCESS ON  
8 SITE, AND WE'VE LEARNED VERY VALUABLE LESSONS.  
9 AND WE SHARE THEM WITH EVERYBODY, WE WARN PEOPLE  
10 ABOUT DOING THINGS THAT AREN'T DOCUMENTED.  
11 AND, THEREFORE, LIKE I REQUEST, WE  
12 WOULD LIKE TO GET ON TRACK ON THE FINES, BE  
13 REINSTATED, AND GO ON WITH OUR PROGRAM AND BE  
14 PART OF THIS DEAL.  
15           CHAIRMAN EATON: ANY QUESTIONS OF MR.  
16 BALL?  
17           MEMBER PENNINGTON: MR. CHAIRMAN?  
18           CHAIRMAN EATON: MR. PENNINGTON.  
19           MEMBER PENNINGTON: MR. BALL, WHAT ARE  
20 YOU DOING WITH THE SHREDS?  
21           MR. BALL: WE TAKE THEM TO THE SACRAMENTO  
22 LANDFILL DOWN IN SLOUGH HOUSE(PHON). AND WE WERE  
23 GOING UP TO REFUGE, INC., UP IN LOCKWOOD, NEVADA.  
24 I LIKE THAT RUN DURING THE SUMMER MONTHS, IT'S  
25 RATHER NICE. THE ONE IN SACRAMENTO, THAT'S WHAT

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1 WE USE MOST OF THE TIME, AND THEY CHARGE ME  
2 \$28.05 A TON, AND IT COSTS ME APPROXIMATELY 12  
3 CENTS A TIRE TO PROCESS.  
4 WE BUILT A TIRE CHOPPER OUT OF A WOOD  
5 SPLITTER, AND TO THIS DATE THAT THING DOESN'T  
6 MISS A LICK. IT COSTS ME ABOUT \$2.00 A DAY TO  
7 OPERATE IT. WE'RE HIGH OVERHEAD, YOU UNDERSTAND.  
8 AND WE BUILD ALL OF OUR OWN EQUIPMENT, WE CAN  
9 PUNCH OUT ONE AND THREE-QUARTER-INCH-SQUARE  
10 PIECES OUT OF THESE TIRES. ALL OF OUR EQUIPMENT  
11 IS TOWABLE AND PORTABLE.  
12 AND AFTER THIS MEETING, WE HAVE A  
13 FACILITY IN PINE GROVE, A WRECKING HARD THAT HAS  
14 BEEN CLOSED, IT IS BEING CLEANED UP, WE'D LIKE TO  
15 APPLY FOR ANOTHER MINOR TIRE FACILITY PERMIT  
16 AFTER WE FIND OUT WHAT'S GOING ON.  
17 I SPOKE WITH KEITH PRIOR TO THIS, AND  
18 WE WANT TO DO THIS RIGHT. WE'RE IN FOR THE LONG-  
19 HAUL, THE LONG PULL. OUR INTENT AT THE HOUSE WAS  
20 NOT DISRESPECT FOR THE GOVERNMENT, DISRESPECT FOR  
21 THE ENVIRONMENT, IT WAS JUST IGNORANCE.  
22 MEMBER PENNINGTON: AND YOU'RE TAKING THE  
23 CRUMB RUBBER THERE, TOO, AS WELL?  
24 MR. BALL: WE WILL BE EXPERIMENTING WITH  
25 THE CRUMB RUBBER. WE JUST MIX IT WITH THE REST



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1 OF THE SHREDDED-UP TIRES, WE DON'T HAVE A MARKET  
2 FOR IT. WE'RE SUCH A LITTLE COMPANY, ON A GOOD  
3 WEEK 4,000 TIRES IS WHAT WE GATHER. WE'RE THE  
4 LITTLE GUY, BUT WE DO ALL SIZES, ALL PHASES OF  
5 IT. WE DE-RIM EARTH MOVER TIRES, EVERYTHING.  
6 WE'RE NOT RESTRICTED TO WHATEVER SOMEBODY'LL  
7 ACCEPT, WE DO THE WHOLE BALL OF WAX. THE HARDEST  
8 TIRES FOR US TO PROCESS ARE BICYCLE TIRES, THEY  
9 REALLY ARE, THEY ARE A SON OF A GUN.

10 CHAIRMAN EATON: ANY OTHER QUESTIONS?

11 MEMBER FRAZEE: YES, I HAVE A QUESTION.

12 CHAIRMAN EATON: MR. FRAZEE.

13 MEMBER FRAZEE: MR. BALL, I NOTICED YOUR  
14 TIRE HAULERS PERMIT IS FOR ONE F 100 LITTLE  
15 PICKUP.

16 MR. BALL: MY LITTLE PICKUP. MY TOYOTA  
17 WORE OUT SO I HAD TO GET A LITTLE FORD, NOW I  
18 HAVE A --

19 MEMBER FRAZEE: YOU'RE TALKING ABOUT  
20 HAULING 500 TONS OF TIRES --

21 MR. BALL: I HAVE TWO OTHER VEHICLES,  
22 PLUS WHEN WE FIRST STARTED IN THE CLEANUP IT WAS  
23 STILL LEGAL TO RENT RYDER TRUCKS, AND WE RENTED  
24 TWO OF THEM AT A TIME. WE USED TWO OF THEM TO  
25 MOVE THE MAJORITY OF THE TONNAGE WHEN WE STARTED

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1 CLEANING OUT THE WRECKING YARD.

2 MEMBER FRAZEE: IS THAT --

3 MR. BALL: IT'S NOT LEGAL NO MORE, WE  
4 WERE WARNED NOT TO DO THAT NO MORE. BELIEVE ME,  
5 WE WERE WARNED.

6 THAT'S WHAT MR. EFRAM USED TO

7 ILLEGALLY DUMP TIRES BACK ON THE WRECKING YARD

8 WHEN WE ALMOST HAD IT CLEANED UP, WAS A RYDER

9 TRUCK, AND IT CAME FROM NEXT TO THE WRECKING

10 YARD, AND THE PLACE WHERE HE PICKED UP THE TIRES

11 WAS THE NEXT BUILDING DOWN. SO WITHIN A SHORT

12 BLOCK THE GUY HAD MADE CLOSE TO \$1,000 AND

13 DROPPED OFF THE TIRES ON THE TIRES THAT I WAS

14 CLEANING UP.

15 WE HAD DOCUMENTED PROOF AT THAT TIME.

16 WE FOUND EMERSON LOGGING NAME ON ONE OF -- THE

17 VERY BOTTOM TIRE, WE WERE ABLE TO FIND IT, AND I

18 WENT OVER AND TALKED TO EMERSONS. AND WE LAID

19 OUT ALL THE INFORMATION TO THE INTEGRATED WASTE

20 MANAGEMENT BOARD AND THEY PROMPTLY PURSUED IT.

21 AND FROM MY UNDERSTANDING MR. FINE RECEIVED JUST

22 A FEW MONTHS' PROBATION.

23 MEMBER FRAZEE: SO WHAT VEHICLE ARE YOU

24 CURRENTLY HAULING --

25 MR. BALL: I HAVE A CHEVY C60 THAT IS

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1 CUSTOM BUILT FOR SHREDDING TIRES. KEITH HAS SEEN

2 IT, IT'S ONE —

3 MEMBER FRAZEE: BUT YOU DON'T HAVE A

4 HAULER'S PERMIT FOR --

5 MR. BALL: NO, SIR, WE ARE -- ORDERS ARE

6 UP, THE WATER'S GOING BACKWARDS DOWN THE STREAM,

7 BUT WE HAVE A PROBLEM HERE, WE NEED TO GET THIS

8 STRAIGHTENED UP. MY CONSUMERS HAVE BEEN HIDING

9 THEIR TIRES FOR ME AWAITING THIS. WE ARE NOT

10 FUNCTIONING, WE HAVE A PROBLEM HERE.

11 MEMBER JONES: MR. CHAIRMAN?

12 CHAIRMAN EATON: MR. JONES.

13 MEMBER JONES: JUST A COUPLE OF THINGS.

14 COMING FROM THAT AREA, IT IS -- YOU NEED TO KNOW,

15 SINCE I FUNDED -- MY PARTNER AND I FUNDED AN

16 AWFUL LOT OF CLEANUPS. IN FACT, MR. EATON AND I

17 WENT UP AND GAVE AN AWARD TO THE PEOPLE THAT DID

18 IT. WE HAD TIRES EVERYWHERE. THEY WERE DUMPED

19 UP OUT AT BIG OAT FLAT LANDFILL, ON THE ROAD TO

20 THERE --

21 MR. BALL: YEAH, ONE OF MY FAVORITE

22 PLACES.

23 MEMBER JONES: YEAH, MINE TOO.

24 SO THERE IS A NEED IN THAT AREA FOR A

25 LEGAL, COMPETENT TIRE HAULER, BECAUSE THERE'S NOT

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1 ENOUGH VOLUME TO GET THE BIG GUYS IN THERE.

2 MR. BALL: YEAH, THAT IS EXACTLY RIGHT.

3 AND THAT'S WHY ALL MY TIRE CONSUMERS, IF THERE

4 WOULD HAVE BEEN -- IF THERE IS A NEGATIVE ON

5 THIS, ARE WILLING TO WRITE LETTERS SAYING, HEY,

6 THIS GUY'LL DO IT, NO ONE ELSE WILL EVEN LOOK AT

7 IT.

8 MEMBER JONES: THE ONLY THING IS, THERE'S

9 A COUPLE OF TIRE DEALERS THAT I KNOW UP THERE

10 THAT I'M NOT SURE USE YOU. YOU KNOW WHO THEY

11 ARE, RIGHT?

12 MR. BALL: YEAH, I ONLY PICK UP THE GOOD

13 ONES.

14 MEMBER JONES: WOULD YOU LET US KNOW,

15 THOUGH, WHEN YOU FIND OUT WHERE THEY'RE DUMPING

16 ILLEGALLY? BECAUSE I THINK ONE OF THE TIRE

17 STORES —

18 MR. BALL: YEAH, YEAH, I WOULD.

19 MEMBER JONES: -- DUMPED MOST OF THOSE

20 TIRES ON BIG OAK FLAT. ANYWAY --

21 MR. BALL: YES, I WILL. I WILL COOPERATE

22 IN EVERY WAY. CALAVERAS COUNTY HAS GOT SOME

23 PRETTY INTERESTING PILES TO THIS DATE. I WAS

24 TALKING TO KEITH EARLIER, I COULD COME UP WITH,

25 OH, 100,000 OF THEM IN A COUPLE HOURS.

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1           MEMBER JONES: I WANT TO GET BACK TO THE  
2 -- THIS IS GETTING TO -- THIS IS A HEARING,  
3 REMEMBER, WE'RE READY TO REVOKE THIS GUY'S  
4 PERMIT. CAN YOU TELL?  
5 THERE'S A LETTER, KEITH, IT'S -- I  
6 DON'T KNOW WHAT EXHIBIT NUMBER IT IS, IT'S ON MY  
7 -- IT'S ON 29-46, IT'S ON THE WEST CLINTON ROAD  
8 FACILITY. AND IT SAYS THAT ON APRIL 11TH THE  
9 INSPECTION REPORT FOR THE TIRES LOCATED, THERE  
10 WAS A CLEANUP PLAN, THAT THEY REQUESTED A 90-DAY  
11 -- THAT 90 DAYS BE GRANTED FOR COMPLETE REMOVAL.  
12 AND THEN IT SAYS THEY HAD TO HAVE EVERYTHING DONE  
13 BY JUNE 21ST. AND THAT WAS DATED ON JUNE 3RD.  
14 AND I'M WONDERING, IF WE GRANTED THEM  
15 90 DAYS, AND THE LETTER WAS WRITTEN ON JUNE 3RD,  
16 BUT THEY HAD TO BE CLEANED UP BY JUNE 21ST --  
17           MR. BALL: THAT WAS A SHORT 90 DAYS.  
18           MEMBER JONES: -- WAS PART OF THAT --  
19 HUH?  
20           MR. BALL: THAT WAS A SHORT 90 DAYS.  
21           MEMBER JONES: DO YOURSELF A FAVOR, SHHH.  
22           MR. BALL: OKAY.  
23           MEMBER JONES: THEY -- YOU KNOW, THERE  
24 WAS A BIG FINE ASSOCIATED WITH THAT CLEANUP. AND  
25 IF WE HAD AGREED TO 90 DAYS, BUT WE ONLY -- IT

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1 LOOKS TO ME LIKE WE ONLY GAVE THEM 18, IS THAT  
2 CONSISTENT, OR IS IT JUST A MISPRINT, OR AM I  
3 MISSING SOMETHING?  
4 MR. CAMBRIDGE: NO. AS I MENTIONED  
5 EARLIER, THAT PARTICULAR SITE, DUE TO THE  
6 PROXIMITY, AS THIS PICTURE DEPICTS, YOU WERE IN A  
7 LOT OF PINE TREES, A LOT OF VEGETATIVE GROWTH,  
8 AND THE ENSUING SUMMER MONTHS, WE WERE WORRIED  
9 ABOUT FIRE DANGER.  
10 WE CAME ACROSS BOTH THE SITES, WEST  
11 CLINTON AND THE FINE AND SONS ON THE SAME DATE.  
12 TALKING TO MIKE I SAID, YOU KNOW, AS FAR AS THE  
13 FACILITIES GO, MY PREFERENCE WOULD BE HE FOCUSES  
14 ON THE WEST CLINTON SITE FIRST BECAUSE IT'S A  
15 RESIDENTIAL AREA.  
16 HE ASKED FOR 90 DAYS, WE FELT, NO,  
17 THAT WAS TOO SHORT AND THAT -- ACTUALLY, DURING  
18 THE -- THE REASON WHY IT WAS DATED JUNE 3RD AND  
19 I'D SAID JUNE 21ST, WE'D ACTUALLY TALKED TO MIKE  
20 BACK ON APRIL 1ST AND SAID, YOU KNOW, IT'S GOING  
21 TO HAVE TO BE A SHORT CLEAN. AND HE WAS GOING TO  
22 BE CLEANING IN THE MEANTIME.  
23 SO BASICALLY BETWEEN APRIL 1ST AND  
24 JUNE 21ST, I FIGURED THAT WAS ADEQUATE TIME TO  
25 REMOVE THOSE TIRES.

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1           MEMBER JONES: ALL RIGHT. I JUST  
2 WONDERED.  
3           MR. BALL: WE WERE REMOVING BOTH TIRES  
4 FROM BOTH SITES AT THE SAME TIME. AND AT THE  
5 SAME TIME MR. FINE WAS ALMOST KEEPING UP WITH ME  
6 BRINGING THEM BACK IN.  
7           CHAIRMAN EATON: I HAVE A QUESTION.  
8 CURRENTLY THE SLIDE THAT'S SHOWING UP ON THE  
9 SCREEN, WHEN WAS THAT TAKEN AGAIN, JUST OUT  
10 OF...?  
11          MR. CAMBRIDGE: APRIL 1ST, 1996.  
12          CHAIRMAN EATON: OKAY.  
13          MR. BALL: I'M VERY PROUD --  
14          CHAIRMAN EATON: DO YOU HAVE ANY IDEA  
15 WHAT IT LOOKS LIKE TODAY?  
16          MR. CAMBRIDGE: OH, IT'S CLEAN --  
17          MR. BALL: IT'S SPOTLESS.  
18          MR. CAMBRIDGE: -- WELL, I HOPE IT'S  
19 CLEAN.  
20          MR. BALL: IT'S SPOTLESS.  
21          CHAIRMAN EATON: SPOTLESS? OKAY.  
22          MR. BALL: YES. WE HAVE LEARNED OUR  
23 LESSON. I'M VERY PROUD OF THAT TREE, THAT IS A  
24 VERY NICE TREE. WE HAVE SEVERAL --  
25          CHAIRMAN EATON: I'D BE MORE WORRIED

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1 ABOUT THE CANAL THAT'S EITHER UP TO THE LEFT OR  
2 BELOW IT.

3 MR. BALL: AND IT RUNS THE FULL LENGTH OF  
4 OUR -- IT'S A 14-MILE, HALF-PERCENT GRADE CLIMB,  
5 OR A CANAL THAT WAS DUG BY THE CHINESE FOR THE  
6 MINERS BACK IN 18-SOMETHING, AND WE LOVE IT. IT  
7 GOES CLEAR TO THE HIGHWAY, AND IT'S NICE.  
8 THE GRANDKIDS LIKE IT. I HAD MY  
9 SECOND GRANDSON SUNDAY NIGHT, I'M A 42-YEAR OLD  
10 GRANDFATHER WITH TWO GRANDSONS.

11 MEMBER JONES: MR. CHAIRMAN.

12 CHAIRMAN EATON: MR. JONES.

13 MEMBER JONES: FOR STAFF, I KNOW THAT --  
14 WHAT IS THE RECORD OF MR. BALL IN 1998,  
15 VIOLATION-WISE?

16 MR. CAMBRIDGE: WE HAVE NOT RECEIVED ANY  
17 REPORTS OF ANY SORT OF VIOLATIONS. THE ONLY  
18 THING WE HAVE HAD A PROBLEM WITH IS THE PAYMENT  
19 OF FINES, HE SUBMITTED A FEW BOUNCED CHECKS.

20 MEMBER JONES: AND THAT WAS ON THE -- HOW  
21 MUCH WAS THE FINE ON THE CLINTON SITE?

22 MR. CAMBRIDGE: \$1,000.

23 MEMBER JONES: AND ON THE FINES' SITE.

24 MR. CAMBRIDGE: NINE THOUSAND.

25 MEMBER JONES: OKAY. AND PART OF THAT



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1 9,000 IS SUPPOSED TO BE PAYABLE BY THE FINES?

2 MS. SMALL: THAT WAS JOINT AND SEVERAL

3 LIABILITY, THEY BOTH GOT FINED \$9,000.

4 MEMBER JONES: EACH?

5 MS. SMALL: EACH.

6 MS. TOBIAS: HAVE THE FINES MADE ANY --

7 MS. SMALL: NO.

8 MR. BALL: ZERO, NO PAYMENT, NO EFFORT,

9 NO HELP -- I'M SORRY.

10 MS. SMALL: BUT WE'VE LIENED THE PROPERTY

11 FOR THAT AMOUNT OF MONEY.

12 MS. TOBIAS: OH, OKAY.

13 MEMBER JONES: THE FINE PROPERTY?

14 MS. SMALL: THE WRECKING YARD, WHICH

15 MIGHT BE WORTH \$9,000.

16 MEMBER JONES: THAT'S RIGHT. THE -- WHAT

17 WILL WE HAVE SPENT? DOES ANYBODY -- DO YOU --

18 OH, I DON'T THINK THEY'RE HERE. WE HAD THIS ITEM

19 IN FRONT OF US AS A TIRE -- AS PART OF THE TIRE

20 CLEANUP, THE FINE PROPERTY, THAT WE WERE GOING TO

21 USE STATE DOLLARS TO PAY FOR, AND THEN GO AFTER

22 THE FINES FOR COST RECOVERY. AND I OBJECTED

23 BECAUSE OF THE WAY THE TIRES WERE, AND WE WENT

24 AFTER THE FINES TO DO IT.

25 BUT THERE WAS AN ESTIMATE OF WHAT THE

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1 DOLLARS WERE GOING TO BE --

2 MR. BALL: THIRTY THOUSAND WAS THE AMOUNT

3

4 MEMBER JONES: -- TO CLEAN THAT UP

5 MR. BALL: I HAVE THE CALIFORNIA TIRE

6 REPORT.

7 MEMBER JONES: THERE WAS -- I MEAN, TO

8 CLEAN UP THAT SITE, DO WE REMEMBER WHAT THAT WAS?

9 WAS THAT ABOUT RIGHT, ABOUT 30 GRAND?

10 MS. SMALL: THERE WERE ABOUT 10,000 TIRES

11 OUT THERE. BASED ON WHAT IT GENERALLY COSTS US

12 TO PICK UP, IT WOULD PROBABLY BE SOMEWHERE

13 BETWEEN 15 AND 20.

14 MEMBER JONES: I'M TRYING -- IF YOU DON'T

15 KNOW WHAT I'M DOING, I'M TRYING TO FIGURE OUT --

16 MS. SMALL: I KNOW WHAT YOU'RE DOING.

17 MEMBER JONES: -- A WAY TO MINIMIZE AND

18 KEEP THIS IN BUSINESS. I MEAN, BECAUSE --

19 MR. BALL: THANK YOU.

20 MEMBER JONES: -- THERE IS A HUGE PROBLEM

21 IN TUOLUMNE COUNTY AND CALAVERAS COUNTY --

22 MR. BALL: YES.

23 MEMBER JONES: -- AND WE'VE GOT TIRES

24 GOING DOWN INTO GULLIES EVERYWHERE.

25 MR. BALL: AND I WOULD CERTAINLY TURN

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1 SOMEBODY IN IF I SAW THEM DOING IT. WE HAVE  
2 NEVER DONE ANYTHING LIKE THAT. THAT PICTURE FROM  
3 THE HOUSE, THAT'S FROM GOING DOWN THE MOKULUMNE  
4 RIVER ON WEEKENDS AND PICKING UP TIRES. MOST OF  
5 THAT WAS ACCUMULATED OVER YEARS.  
6 WE DID BRING SOME IN WHEN WE WERE  
7 HAVING THE TROUBLE WITH THE FINES AND WE WERE  
8 TRYING TO RELOCATE, BUT THE MAJORITY OF THAT WAS  
9 FROM COMMUNITY CLEANUPS AND THINGS ALONG THAT  
10 LINE.

11 MS. SMALL: I DON'T KNOW IF THIS WILL BE  
12 HELPFUL OR NOT, BUT I DID NOT MENTION THIS  
13 PREVIOUSLY. UNDER THE REGULATIONS REGARDING  
14 WASTE TIRE HAULER REGISTRATION, IF MR. BALL DOES  
15 NOT GET HIS REGISTRATION AT THIS POINT IN TIME,  
16 THERE IS NOTHING PROHIBITING HIM FROM REAPPLYING  
17 AT ANY TIME, AS MANY TIMES AS HE LIKES. SO IF HE  
18 IS DENIED AT THIS TIME, AND HE IS PERHAPS ASKED  
19 TO DO SOMETHING IN THE INTERIM, HE CAN REAPPLY AS  
20 OFTEN AS HE CHOOSES.

21 MEMBER JONES: OKAY. WOULD HE -- HE'S  
22 GOT A SURETY BOND, RIGHT, OF 10 GRAND?

23 MS. SMALL: YEAH, HE DOES FOR LAST YEAR.  
24 HE -- WE DON'T KNOW THAT HE HAS ONE IN YET --

25 MR. BALL: IT SHOULD BE STILL GOOD FOR

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1 THIS YEAR ALSO.  
2 WE WOULD LIKE TO MAKE THE PAYMENTS ON  
3 THE FINES AND GET ON TRACK. WE WOULD LIKE TO  
4 HAVE THAT FINE FROM -- FINES REDUCED FROM NINE  
5 DOWN TO 1,000 LIKE IT WAS ORIGINALLY SET UP IF WE  
6 HAD IT CLEANED OUT. THAT IS WHAT WE WOULD LIKE.  
7 WE WILL GLADLY PAY THE THOUSAND FROM THE HOUSE,  
8 AND TO GET IT CLEARED UP AND TO GET RE-GOING.  
9 WE'RE NOT TRYING TO BEAT YOU OUT OF NOTHING.  
10 IT JUST DIDN'T SEEM TO ME THAT IT WAS  
11 FAIR THAT I WENT FROM 1,000 WHEN I WAS ALMOST  
12 DONE, AND BECAUSE OF BILL FINE BRINGING IN MORE  
13 TIRES RAISES IT TO 9,000 AFTER I HAD ALREADY  
14 CLEANED EVERYTHING UP.  
15 MEMBER JONES: AND WE JUST SPENT \$30,000  
16 CLEANING UP WITH STATE FUNDS.  
17 MR. BALL: YEAH, SURE.  
18 MEMBER JONES: HAD WE NOT PRESSURED -- WE  
19 FOUGHT THE FINES TO CLEAN UP. AS I REMEMBER --  
20 MR. BALL: I ASKED THE COUNTY --  
21 MEMBER JONES: -- I SAID I KNOW WHO THESE  
22 PEOPLE ARE. I MEAN, I KNOW THESE PEOPLE, LET  
23 THEM CLEAN IT UP, AND YOU ARE THE ONE THAT ENDED  
24 UP CLEANING IT UP.  
25 MR. BALL: I ASKED THE COUNTY TO APPLY

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1 FOR A \$30,000 LOAN FROM YOU GUYS, AN ABATEMENT  
2 DEAL, AND THEY TOLD ME THAT THEIR HANDS WERE  
3 TIED. AND I FIGURE THEY THREW ME IN LIKE A  
4 SACRIFICIAL GOAT. SEE WHAT HAPPENS. AND I WAS  
5 JUST USED.

6 CHAIRMAN EATON: MR. BALL, SENATOR  
7 ROBERTI HAS, I THINK, A COMMENT.

8 MR. BALL: YES.

9 MEMBER ROBERTI: DO YOU HAVE ANY TIRE  
10 PILES RIGHT NOW?

11 MR. BALL: NO, SIR. I HAVE ABOUT 200 IN  
12 MY USED TIRE STORE, POOR MIKE'S USED TIRES AND  
13 RIMS IN PLYMOUTH. AND THAT DOESN'T -- THAT IS  
14 GOING BACKWARDS DOWN RIVER AS WELL, BECAUSE  
15 WITHOUT A HAULER LICENSE I CANNOT HAUL ANY TIRES.  
16 AND I -- WE HAVE JUST NOW GOT TO WHERE WE WERE  
17 STARTING TO DO PRETTY GOOD ON THE USED TIRE  
18 BUSINESS, AND --

19 MEMBER ROBERTI: SO YOU'RE NOT --

20 MR. BALL: WE'RE STUCK. WE'RE STUCK.

21 MEMBER ROBERTI: -- IN VIOLATION, YOU'RE  
22 NOT COLLECTING ANY --

23 MR. BALL: WE ARE STUCK.

24 MEMBER ROBERTI: YOU ARE NOT COLLECTING  
25 ANY TIRES.

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1 MR. BALL: NO, SIR. NO. WE ARE STUCK.

2 WE ARE HURTING.

3 MEMBER ROBERTI: AND HOW LONG HAVE YOU

4 NOT HAD A HAULER'S LICENSE?

5 MR. BALL: ABOUT 35, 40 DAYS, SOMETHING

6 LIKE -- BECAUSE IT WASN'T UNTIL THE 14TH OF

7 JANUARY THAT I FIGURED OUT THAT -- WHEN I GOT THE

8 LETTER. I WAS UNDER THE IMPRESSION ALL ALONG

9 THAT I WAS GOING TO GET MY LICENSE.

10 MEMBER ROBERTI: ABOUT 30 DAYS?

11 MR. BALL: YES, SIR. AND WE ARE HURTING.

12 MEMBER ROBERTI: AND WHAT OTHER THINGS DO

13 YOU DO FOR INCOME?

14 MR. BALL: I HAVE MBO ENVIRONMENTAL,

15 WHERE WE DO CLEANUPS. WE'RE WORKING UP AT THE

16 HATLER MILL UP IN COLUMBIA RIGHT NOW, WE'RE

17 PICKING AROUND THAT. I HAVE THE USED TIRE STORE

18 IN PLYMOUTH, THAT DOESN'T DO TOO TERRIBLY MUCH.

19 IT WAS FORMERLY ABERCROMBE TIRE. THE GUY LIKED

20 ME A LOT, HE RENTS IT TO ME FOR \$300 A MONTH,

21 COMPLETE WITH EVERYTHING, BALANCE MACHINE,

22 COMPRESSOR. I MEAN, I GOT A TWO-YEAR LEASE ON

23 IT, THAT WAS A PRETTY GOOD DEAL.

24 MEMBER ROBERTI: AND THOSE ARE THE TWO

25 THINGS YOU'RE DOING RIGHT NOW.

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1 MR. BALL: YEAH. YEAH, AND THE CLEANUPS.

2 MEMBER ROBERTI: WHAT IS YOUR INCOME --

3 MR. BALL: IT'S VERY LOW RIGHT NOW.

4 MEMBER ROBERTI: WELL, I APPRECIATE THAT.

5 MR. BALL: YEAH. WE GENERALLY GENERATE

6 OVER 100,000 A YEAR. THAT SEEMS TO BE THE --

7 WHAT WE'RE HEADING FOR. AND THIS YEAR WE'RE

8 HOPING TO GET BIGGER AND BIGGER, BUT --

9 MEMBER ROBERTI: WITH THE HAULING OR

10 WITHOUT THE HAULING?

11 MR. BALL: THAT'S THE HAULING PART, YES.

12 YES, WE HAVE -- GETTING THE BUGS OUT --

13 MEMBER ROBERTI: SO WHAT IS YOUR INCOME

14 WITHOUT THE HAULING PART?

15 MR. BALL: NOT MUCH, NOT MUCH AT ALL.

16 THE TIRE STORE, IT'S ONLY OPEN ON WEEKENDS. AND,

17 WELL, LAST WEEKEND WE TURNED ZERO. DRANK A LOT

18 OF COFFEE.

19 MEMBER ROBERTI: WELL, I APPRECIATE THE

20 FACT THAT IT'S HARD FOR YOU TO PAY A FINE IF

21 YOU'RE NOT IN BUSINESS.

22 MR. BALL: RIGHT. WELL WE --

23 MEMBER ROBERTI: ON THE OTHER HAND --

24 MR. BALL: WE SET UP A --

25 MEMBER ROBERTI: -- I THINK YOU'VE ONLY

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2 MEMBER JONES: I BELIEVE IT'S --  
3 MR. BALL: SEVEN-FIFTY.  
4 CHAIRMAN EATON: -- \$500 IS THE RECORD,  
5 BUT --  
6 MEMBER ROBERTI: THE RECORD IS 500 --  
7 MS. SMALL: MR. BALL SUBMITTED APPARENTLY  
8 TWO CHECKS THIS MONTH. WE HAD RECEIVED ONE  
9 APPROXIMATELY TWO YEARS AGO FOR \$250, AND THEN WE  
10 RECEIVED ONE AT THE BEGINNING OF THIS MONTH, AND  
11 APPARENTLY HE SENT IN ANOTHER ONE SINCE THEN. SO  
12 IT WOULD BE A TOTAL OF 750.  
13 MEMBER ROBERTI: AND 50 750 ON A \$9,000  
14 FINE OVER A PERIOD OF --  
15 CHAIRMAN EATON: WAS THAT FOR THE \$9,000  
16 FINE, OR THE \$1,000 FINE? DO WE KNOW, OR --  
17 MR. BALL: THAT WAS FOR THE GENERAL  
18 FINES, WHATEVER. I JUST SENT IN ONE CHECK. WE  
19 TRIED TO GET THIS --  
20 MEMBER ROBERTI: DOES STAFF HAVE ANY DATA  
21 AS TO HOW MUCH OF THIS TIRE PILE WAS MR. FINE'S  
22 AND HOW MUCH WAS MR. BALL'S?  
23 MR. CAMBRIDGE: THE WEST CLINTON SITE WAS  
24 IN TOTAL MR. BALL'S. THE FINE AND SONS SITE,  
25 ACCORDING TO MR. BALL, WAS -- HE BROUGHT IN ABOUT



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1 400 — APPROXIMATELY 43,000 TIRES?

2 MR. BALL: YEAH, 536 TONS. I BROUGHT IN  
3 43,361 PASSENGER, I BROUGHT IN 1230 TRUCK TIRES,  
4 I BROUGHT IN 34 EXTRA-HEAVY LOAD OF TIRES AT  
5 ABOUT A TON APIECE. I BROUGHT IN 55 MEDIUM-  
6 LOADED TIRES AT ABOUT 500 APIECE. AND I BROUGHT  
7 IN 22 SMALL TRACTOR TYPE TIRES, ABOUT 100 POUNDS  
8 APIECE. THE TOTAL TONNAGE COMES OUT TO 536 TONS.  
9 AND THEN THE BOTTOM LINE MANIFESTS THAT I HAVE  
10 WITH ME NOW, WE HAULED OUT --

11 CHAIRMAN EATON: MR. BALL, OUT OF THOSE  
12 TIRES YOU JUST MENTIONED, THOSE WERE THE ONES  
13 THAT WENT TO THE FINE AND SONS SITE, CORRECT?

14 MR. BALL: YES, SIR.

15 CHAIRMAN EATON: AND THOSE WERE THE ONES  
16 THAT YOU ALLEGED TO HAVE CLEANED UP AND TAKEN OUT  
17 OF THE FINE AND SONS SITE, EACH AND EVERY ONE OF  
18 THOSE?

19 MR. BALL: THOSE PLUS -- THE TOTAL AMOUNT  
20 WAS 1,013 TONS, WHAT WAS ALREADY THERE. IT WAS A  
21 COMPLETE TOTAL --

22 CHAIRMAN EATON: AT YOUR OWN COST.

23 MR. BALL: AT MY OWN COST. WHEN WE FIRST  
24 --

25 CHAIRMAN EATON: OKAY, THAT'S FINE.

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1 MEMBER PENNINGTON: MR. CHAIRMAN?

2 MEMBER ROBERTI: LET ME JUST SAY, AND

3 THAT INCLUDES, I TAKE IT FROM STAFF, TIRES FOR

4 WHICH -- FOR MR. FINE ALSO.

5 MR. BALL: YES, EVERYTHING --

6 MS. SMALL: YEAH, ACCORDING TO WHAT WE'VE

7 BEEN ABLE TO ASCERTAIN, THAT HE HAS REMOVED TIRES

8 THAT WERE BOTH HIS RESPONSIBILITY AND MR. FINE'S

9 RESPONSIBILITY.

10 MEMBER ROBERTI: DO YOU HAVE ANY IDEA OF

11 NUMBERS?

12 MS. SMALL: OTHER THAN HIS

13 REPRESENTATIONS, NO.

14 MEMBER ROBERTI: BUT YOU WOULD SAY IT'S A

15 FAIR ESTIMATE THAT HE HAS REMOVED BOTH HIS AND

16 MR. FINE'S TIRES?

17 MS. SMALL: YES. MR. BALL, FOR ALL OF

18 HIS SHORTCOMINGS, HAS NEVER BEEN DISHONEST WITH

19 US IN HIS ADMISSIONS.

20 MR. BALL: THANK YOU.

21 MEMBER ROBERTI: WELL --

22 CHAIRMAN EATON: MAYBE A RUBBER CHECK OR

23 TWO, RIGHT?

24 MR. BALL: THAT WAS BECAUSE OF A LAW SUIT

25 THAT I GOT INVOLVED WITH OXFORD, AND THAT ALL --

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1 MR. BALL: -- TIES INTO THE WRECKING  
2 YARD.  
3 CHAIRMAN EATON: -- OXFORD?  
4 MR. BALL: YEAH, GOOD OLD --  
5 MEMBER JONES: DON'T GO THERE.  
6 MR. BALL: IF ANYBODY WOULD LIKE TO  
7 COLLECT THE 8,000 THAT MARK KIRKLAND OWES ME, I'D  
8 BE GLAD TO GIVE IT TO YOU.  
9 CHAIRMAN EATON: ALL RIGHTY --  
10 MEMBER ROBERTI: FROM MY OWN --  
11 CHAIRMAN EATON: SENATOR ROBERTI, AND  
12 THEN WE'LL TRY AND WRAP THIS UP.  
13 MEMBER ROBERTI: FROM MY OWN OBSERVATION,  
14 MR. BALL'S MAKING SOME DECENT EFFORT TO CLEAN UP  
15 THINGS FOR WHICH HE HIMSELF IS RESPONSIBLE, AND  
16 OTHERS ARE RESPONSIBLE.  
17 THAT'S IN YOUR FAVOR. THE FACT THAT  
18 YOU HAVE PAID \$750 IS --  
19 MR. BALL: IS NOT GOOD.  
20 MEMBER ROBERTI: -- MINISCULELY IN YOUR  
21 FAVOR. I THINK YOU OUGHT TO DO A LITTLE BIT MORE  
22 --  
23 MR. BALL: YES, SIR.  
24 MEMBER ROBERTI: -- BEFORE YOU GET MY  
25 VOTE. I DON'T THINK YOU HAVE TO DO -- AS LONG AS

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1 THE COUNSEL SAYS -- AND I DON'T THINK YOU HAVE  
2 TO DO THE WHOLE NINE-YARD -- THE \$9,000, NINE  
3 YARDS. BUT I THINK 750'S, YOU KNOW, NOT ENOUGH.

4 MR. BALL: RIGHT.

5 MEMBER ROBERTI: NOT ENOUGH.

6 MR. BALL: OH, I UNDERSTAND. I  
7 UNDERSTAND.

8 MEMBER ROBERTI: BEFORE I VOTE.

9 MEMBER PENNINGTON: MR. CHAIRMAN?

10 CHAIRMAN EATON: MR. PENNINGTON, AND THEN  
11 MAYBE WE CAN WRAP THIS UP.

12 MEMBER PENNINGTON: LET ME MAKE A MOTION  
13 THAT WE REINSTATE HIS TIRE HAULING LICENSE  
14 EFFECTIVE THE 1ST OF MARCH. THAT WE FINE HIM  
15 \$4500 TOTAL. GIVE HIM SIX MONTHS TO PAY THAT TO  
16 US.

17 MR. BALL: ONE YEAR, PLEASE? PLEASE? MY  
18 WALLET --

19 MEMBER PENNINGTON: WE'RE GOING TO GIVE  
20 YOU CREDIT FOR THE 750, AND WE'LL GIVE YOU UNTIL  
21 THE FIRST OF NEXT YEAR.

22 MR. BALL: THANK YOU.

23 CHAIRMAN EATON: OKAY? DOES THAT WORK?

24 MEMBER JONES: THAT WORKS.

25 MS. SMALL: IF I MAY CLARIFY FOR THE

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1 RECORD?

2 CHAIRMAN EATON: SURE.

3 MS. SMALL: THE \$4500 WOULD BE A

4 REDUCTION OF THE ENTIRE 10,000?

5 MEMBER PENNINGTON: CORRECT.

6 MS. SMALL: THANK YOU.

7 MS. TOBIAS: WELL, I'M NOT CLEAR ON THAT.

8 SO, SUZANNE, WHEN HE HAS JOINT AND SEVERAL

9 LIABILITY WITH THE FINES, IT SOUNDS TO ME LIKE

10 WHAT THE BOARD WAS SAYING IS THAT THEY'RE GOING

11 TO HOLD MR. BALL RESPONSIBLE FOR \$4500, BUT

12 THAT'S NOT NECESSARILY REDUCING THE FINE AGAINST

13 THE FINES.

14 MS. SMALL: NO, WE'VE ALREADY OBTAINED A

15 LIEN FOR THE ENTIRE --

16 MR. BALL: OH, I HOPE NOT.

17 MS. SMALL: -- NINE AGAINST THE FINES.

18 AND SO IT WOULD NOT AFFECT THEIR LIABILITY AT

19 THIS POINT.

20 MS. TOBIAS: OKAY.

21 MEMBER PENNINGTON: SO IT'S \$4500, ONE OF

22 IT'S THE THOUSAND, THE OTHER'S 3500, OR HOWEVER

23 YOU WANT TO FIGURE IT OUT.

24 MEMBER ROBERTI: AND IT DOESN'T AFFECT

25 ANY LIEN AGAINST --

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1 MEMBER PENNINGTON: CORRECT.

2 MEMBER ROBERTI: -- WHICH WE HAVE FOR THE

3 REMAINDER.

4 MEMBER PENNINGTON: WE'LL GIVE HIM BACK

5 HIS LICENSE THE 1ST OF MARCH, WE'LL GIVE HIM

6 UNTIL THE FIRST OF THE YEAR 2000 TO PAY THE

7 \$4500.

8 MEMBER JONES: JUST ONE QUESTION.

9 MEMBER PENNINGTON: AND CREDIT THE 750.

10 MEMBER JONES: I'LL SECOND IT.

11 CHAIRMAN EATON: OKAY. WE HAVE A MOTION

12 BY MR. PENNINGTON, A SECOND BY MR. JONES, WITH

13 REGARD TO MB OPPORTUNITIES. ANY OTHER QUESTIONS

14 OR DISCUSSION? REBUTTAL?

15 ALL RIGHT. MADAM SECRETARY, PLEASE

16 CALL THE ROLL.

17 THE SECRETARY: BOARD MEMBERS FRAZEE?

18 MEMBER FRAZEE: AYE.

19 THE SECRETARY: JONES?

20 MEMBER JONES: AYE.

21 THE SECRETARY: PENNINGTON?

22 MEMBER PENNINGTON: AYE.

23 THE SECRETARY: ROBERTI?

24 MEMBER ROBERTI: AYE.

25 THE SECRETARY: CHAIRMAN EATON?

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1           CHAIRMAN EATON: AYE.  
2 MR. BALL?  
3           MR. BALL: YES?  
4           CHAIRMAN EATON: WORD OF CAUTION. THE  
5 ONLY THING WE WANT TO SEE BOUNCING IN HERE --  
6           MR. BALL: YEAH. ARE TIRES?  
7           MEMBER PENNINGTON: AND SOLID CHECKS.  
8           CHAIRMAN EATON: SOLID CHECKS.  
9           MR. BALL: THANK YOU.  
10          CHAIRMAN EATON: OKAY. WHY DON'T WE TAKE  
11 A FIVE-MINUTE BREAK. AND WE'D KIND OF LIKE TO GO  
12 OVER -- OR A 10-MINUTE BREAK, AND KIND OF GO OVER  
13 WHAT THE REST OF THE DAY WILL LOOK LIKE.  
14 (OFF THE RECORD; BRIEF RECESS.)  
15          CHAIRMAN EATON: MAY I HAVE EVERYONE'S  
16 ATTENTION PLEASE? KINDLY TAKE YOUR SEATS.  
17 IN KEEPING WITH TODAY'S AGENDA, WE'LL  
18 GET BACK AND GET STARTED, WE'LL KIND OF GIVE SOME  
19 DIRECTION.  
20 FIRST, I'D LIKE TO THANK EACH AND  
21 EVERY ONE OF YOU FOR STAYING LATE TODAY, AND  
22 BEARING THROUGH SOME DIFFICULT TIMES, AND  
23 ESPECIALLY BOB FRAZEE WHO, IN ONE OF HIS LAST  
24 DAYS, AND WE LOVED HIM SO MUCH THAT, AS I'M ABOUT  
25 TO TELL YOU, WILL BE COMING BACK TOMORROW FOR A

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1 COUPLE OF ITEMS. AND SO WE JUST CAN'T SEEM TO  
2 LET GO, I GUESS IS A KIND OF ISSUE.  
3 THIS EVENING, VERY QUICKLY SO THAT WE  
4 CAN GET HOME TO OUR FAMILIES, WE WILL BE TAKING  
5 UP ITEMS 14, 15, 16, 17, AND ITEM 25. THAT WOULD  
6 LEAVE ITEM 18, THE 2136, NUMBER 19, THE  
7 CONSIDERATION OF THE RANKING FOR THE FARM AND  
8 RANCH SOLID WASTE CLEANUP AND ABATEMENT FOR  
9 TOMORROW, AS WELL AS ANY REMAINING ITEMS, WHICH  
10 WOULD BE ITEM 27. SO THAT WOULD LEAVE ROUGHLY  
11 THREE ITEMS FOR TOMORROW. WE WILL ALSO INCLUDE  
12 25.  
13 HAVING SAID THAT, I WOULD APPRECIATE  
14 IT, AS WILL ALL OF THE INDIVIDUALS IN THE  
15 AUDIENCE, AS WELL AS BOARD MEMBERS AND STAFF,  
16 THAT IF YOU'D KEEP -- AS WE GO THROUGH ITEMS 14  
17 THROUGH 17 AND 25 -- YOUR PRESENTATIONS TO A  
18 MINIMUM. AND BY THAT, NOT TO LEAVE THINGS OUT,  
19 BUT TO BE SUCCINCT AND CONCISE IN ORDER TO --  
20 THAT WE MAY BE ABLE TO MOVE RIGHT ALONG.  
21 HAVING SAID THAT, ITEM 14. BUT I  
22 UNDERSTAND THAT MR. GEORGE LARSON, WHO I HAD A  
23 BRIEF CONVERSATION WITH -- *EX PARTE*, I SHOULD  
24 PROBABLY ASK THAT, IF ANYONE'S HAD ANY *EX PARTE*



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1 COMMUNICATIONS?

2 MEMBER PENNINGTON: I DID NOT.

3 CHAIRMAN EATON: ALL RIGHT. I JUST HAD A

4 BRIEF CONVERSATION WITH MR. LARSON ON THIS ITEM.

5 AGENDA ITEM NO. 14: CONSIDERATION OF A NEW

6 MAJOR WASTE TIRE FACILITY PERMIT FOR LAKIN TIRE

7 OF CALIFORNIA, INC., LOS ANGELES COUNTY

8 AND HAVING SAID THAT, MR. LARSON, DO

9 YOU HAVE A COMMENT?

10 MR. LARSON: YES, IN THE INTEREST OF

11 BREVITY, BUT ALSO IN THE INTEREST OF A

12 SIGNIFICANT ISSUE THAT HAS ARISEN IN THE MINDS OF

13 BOARD MEMBERS FOR CONSIDERATION OF THIS PERMIT

14 APPLICATION, THIS IS FOR THE LAKIN TIRE FACILITY

15 -- I WOULD REQUEST THAT CONSIDERATION OF THIS

16 ITEM BE DEFERRED UNTIL THE APRIL BOARD MEETING,

17 WHICH WILL ALLOW TIME TO RESOLVE THE REMAINING

18 ISSUE.

19 CHAIRMAN EATON: OKAY. WITHOUT ANY

20 OBJECTION, SO SHALL IT BE ORDERED THAT WE WILL --

21 RATHER THAN CONTINUE IT, WE WILL JUST RE-NOTICE

22 IT FOR THE APPROPRIATE 27TH AND 28TH. AND WE

23 WILL DO THAT UNLESS WE HEAR FROM YOU OTHERWISE.

24 MR. LARSON: THANK YOU, APPRECIATE THAT.

25 CHAIRMAN EATON: OKAY, GREAT.

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1 MEMBER JONES: MR. CHAIRMAN?

2 CHAIRMAN EATON: MR. JONES.

3 MEMBER JONES: JUST FOR A SECOND. ON ONE  
4 OF OUR BREAKS EARLIER TODAY, WHEN WE WERE IN THE  
5 MIDDLE OF ITEM 13, THE MICROPHONES WERE LEFT ON.  
6 MY FRUSTRATION WAS -- I VENTED A LITTLE BIT AND  
7 FOUND OUT FROM MY SECRETARY THAT THEY HEARD IT  
8 ALL OVER THE BUILDING. SO IF I OFFENDED ANYBODY,  
9 I'M SORRY. AT LEAST I DIDN'T SWEAR.

10 CHAIRMAN EATON: I JUST THOUGHT YOUR  
11 VOICE CARRIED.

12 MEMBER JONES: BUT I DO APOLOGIZE.

13 AGENDA ITEM NO. 15: CONSIDERATION OF THE  
14 THE ISSUANCE OF A NEW MAJOR WASTE TIRE FACILITY  
15 PERMIT TO AMERICAN TIRE DISPOSAL, INC., SAN  
16 BERNARDINO COUNTY

17 CHAIRMAN EATON: ALL RIGHTY. ITEM NO. 15,  
18 CONSIDERATION OF THE ISSUANCE OF A NEW MAJOR  
19 WASTE TIRE FACILITY PERMIT TO AMERICAN TIRE DISPOSAL,  
20 INC., SAN BERNARDINO COUNTY

21 MR. MICA: GOOD EVENING, MR. CHAIRMAN AND  
22 MEMBERS OF THE BOARD. ITEM 15 REGARDS THE  
23 CONSIDERATION OF ADOPTION OF A NEW MAJOR WASTE  
24 TIRE FACILITY PERMIT FOR AMERICAN TIRE DISPOSAL,  
25 INC., LOCATED IN SAN BERNARDINO COUNTY. OH, I'M

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1 SORRY, MY NAME IS TOM MICA, FOR THE RECORD. AND  
2 HEREINAFTER REFERRED TO AS ATD.  
3 THE PROPOSED STORAGE AREA IS SITED AT  
4 A VACANT, EXISTING INDUSTRIAL WAREHOUSE FACILITY  
5 THAT INCLUDES OFFICES AND MAINTENANCE BUILDING,  
6 AND INDUSTRIAL BUILDINGS. THE SITE IS ZONED M1,  
7 LIGHT INDUSTRIAL.  
8 ATD PROPOSES TO STORE UP TO 1,000  
9 TONS OF WASTE TIRES. ONE THOUSAND TONS IS  
10 EQUIVALENT TO 100,000 20-POUND PASSENGER TIRES,  
11 OR 20,000 100-POUND TRUCK TIRES.  
12 PASSENGER AND TRUCK WASTE TIRES ARE  
13 TRUCKED TO THE FACILITY, SEPARATED AND GRADED.  
14 THOSE WITH NO RESALE VALUE ARE SHREDDED ON SITE  
15 AND TRUCKED TO A LANDFILL FOR DISPOSAL.  
16 THE MAJORITY OF THE TRUCK AND  
17 PASSENGER TIRES WITH RESALE VALUE ARE STORED  
18 INDOORS. OVERSIZED WASTE TIRES ARE STORED  
19 OUTDOORS. PASSENGER AND TRUCK TIRES MAY ALSO BE  
20 STORED IN ENCLOSED TRAILERS. THE OUTDOOR STORAGE  
21 AREA FOR OVERSIZED TIRES AND) THE TRAILERS  
22 OCCUPIES APPROXIMATELY TWO AND A HALF ACRES. THE  
23 INDOOR STORAGE WILL UTILIZE APPROXIMATELY 45,000  
24 SQUARE FEET OF WAREHOUSE SPACE.  
25 BOARD STAFF HAS DETERMINED THAT ALL

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1 OTHER STATE AND LOCAL REQUIREMENTS FOR THIS  
2 PROPOSED PERMIT HAVE BEEN MET. THE PROJECT'S  
3 DESIGN AND PROPOSED OPERATIONS ARE CONSISTENT  
4 WITH THE STATE MINIMUM STANDARDS. THE APPLICABLE  
5 LOCAL REQUIREMENTS HAVE BEEN MET.  
6 AND IN MAY, 1997, THE CITY OF COLTON  
7 PLANNING DIVISION PREPARED A MITIGATED NEGATIVE  
8 DECLARATION FOR THIS PROJECT. THE NEGATIVE  
9 DECLARATION WAS ADOPTED AND NOTICED, AND A NOTICE  
10 OF DETERMINATION WAS FILED IN AUGUST OF 1997.  
11 AND LAST, THE FINANCIAL ASSURANCE  
12 MECHANISMS MEETS THE REGULATORY REQUIREMENTS.  
13 IN CONCLUSION, STAFF RECOMMENDS THAT  
14 THE BOARD ADOPT PERMIT DECISION NO. 99-70,  
15 APPROVING THE ISSUANCE OF MAJOR WASTE TIRE  
16 FACILITY PERMIT NO. 36-TI-0708.  
17 MS. JOLENE PANDZA, REPRESENTING THE  
18 OPERATOR, IS PRESENT AND AVAILABLE TO ANSWER  
19 QUESTIONS.

20 THIS CONCLUDES STAFF'S PRESENTATION.

21 CHAIRMAN EATON: ALL RIGHTY. ANY  
22 QUESTIONS? COMMENTS?

23 MEMBER PENNINGTON: MR. CHAIRMAN?

24 CHAIRMAN EATON: YES, SIR.

25 MEMBER PENNINGTON: I'LL MOVE ADOPTION OF

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1 THE STAFF RECOMMENDATION TO ADOPT PERMIT DECISION

2 99-70.

3 MEMBER JONES: I'LL SECOND.

4 CHAIRMAN EATON: ALL RIGHTY. MR.

5 PENNINGTON MOVES, AND MR. JONES SECONDS, THE

6 ADOPTION OF RESOLUTION RELATING TO THE APPROVAL

7 OF THE NEW WASTE TIRE FACILITY PERMIT FOR

8 AMERICAN TIRE DISPOSAL, SAN BERNARDINO.

9 MADAM SECRETARY, PLEASE CALL THE

10 ROLL.

11 THE SECRETARY: BOARD MEMBERS FRAZEE?

12 MEMBER FRAZEE: AYE.

13 THE SECRETARY: JONES?

14 MEMBER JONES: YES.

15 THE SECRETARY: PENNINGTON?

16 MEMBER PENNINGTON: YES.

17 THE SECRETARY: ROBERTI?

18 MEMBER ROBERTI: AYE.

19 THE SECRETARY: CHAIRMAN EATON?

20 CHAIRMAN EATON: AYE.

21 THE MOTION PASSES.

22 AGENDA ITEM NO. 16: CONSIDERATION AND

23 APPROVAL OF SCOPE OF WORK FOR ENVIRONMENTAL

24 LABORATORY SERVICES CONTRACT

25

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1 CHAIRMAN EATON: ALL RIGHT. NUMBER 16,  
2 CONSIDERATION AND APPROVAL OF SCOPE OF WORK FOR  
3 ENVIRONMENTAL LABORATORY SERVICES CONTRACT.  
4 MR. WOCHNICH: MR. CHAIRMAN, MEMBERS OF  
5 THE BOARD, I'M MICHAEL WOCHNICH WITH THE BOARD'S  
6 REMEDIATION, CLOSURE AND TECHNICAL SERVICES  
7 BRANCH. THIS ITEM IS CONSIDERATION AND APPROVAL  
8 OF A SCOPE OF WORK FOR A LABORATORY SERVICES  
9 CONTRACT.  
10 THE CONTRACT CONCEPT WAS APPROVED IN  
11 SEPTEMBER, 1998, AND WE'RE ASKING FOR APPROVAL OF  
12 THE CONCEPT SO WE CAN GO OUT TO BID AND REPLACE  
13 THE EXISTING CONTRACT THAT HAS ALREADY EXPIRED.

14 CHAIRMAN EATON: ALL RIGHTY. ANY  
15 QUESTIONS, COMMENTS?

16 MEMBER JONES: MR. JONES?

17 CHAIRMAN EATON: YES, SIR.

18 MEMBER JONES: I'D LIKE TO MOVE  
19 RESOLUTION 1999-51, CONSIDERATION OF THE APPROVAL  
20 OF A SCOPE OF WORK FOR ENVIRONMENTAL LABORATORY  
21 SERVICES.

22 MEMBER PENNINGTON: SECOND.

23 CHAIRMAN EATON: ALL RIGHTY. MR. JONES  
24 MOVES, MR. PENNINGTON SECONDS, THAT WE ADOPT  
25 RESOLUTION 1999-51, RELATIVE TO THE ENVIRONMENTAL

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1 LABORATORY SERVICES CONTRACT.  
2 WITHOUT OBJECTION, I'LL SUBSTITUTE  
3 THE PREVIOUS ROLL CALL ON THE PREVIOUS ITEM?  
4 HEARING NO OBJECTIONS, SO SHALL BE ORDERED.  
5 AGENDA ITEM NO. 17: CONSIDERATION AND  
6 APPROVAL OF THE SCOPE OF WORK AND AWARD OF A  
7 CONTRACT WITH DESERT RESEARCH INSTITUTE FOR A  
8 RESEARCH PROJECT ON ALTERNATIVE ENGINEERED  
9 EARTHEN FINAL COVER SYSTEMS  
10 CHAIRMAN EATON: ITEM NO. 17.  
11 MR. WOCHNICH: OKAY. TO CONTINUE, THIS  
12 IS AN ITEM FOR APPROVAL OF THE SCOPE OF WORK AND  
13 AWARD OF A CONTRACT TO DESERT RESEARCH INSTITUTE,  
14 WHICH IS THE RESEARCH ARM OF THE UNIVERSITY OF  
15 NEVADA, WHO IS CURRENTLY CONDUCTING A FIVE-YEAR,  
16 \$2.5 MILLION PROJECT FOR US EPA ON ALTERNATIVE  
17 EARTH AND FINAL COVERS.  
18 THE CONTRACT CONCEPT FOR \$15,000 WAS  
19 APPROVED LAST SEPTEMBER, AS CALIFORNIA'S SHARE OF  
20 THAT TO HELP US BE PART OF THE GUIDING FORCE FOR  
21 THAT STUDY, SO THAT WE CAN MAKE SURE THAT THE  
22 RESULTS OF THE STUDY WILL BE APPLICABLE TO  
23 CALIFORNIA LANDFILLS.  
24 SO WE'RE ASKING FOR APPROVAL OF BOTH  
25 THE CONTRACT CONCEPT AND AWARD OF THE CONTRACT.

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1           CHAIRMAN EATON: ALL RIGHTY. ANY  
2 QUESTIONS, COMMENTS? HEARING NONE --  
3           MEMBER JONES: MR. CHAIRMAN.  
4           CHAIRMAN EATON: YES, MR. JONES.  
5           MEMBER JONES: ONE QUESTION, AND THEN I  
6 WANT TO MAKE A MOTION. DARREL PECKER WAS  
7 WORKING ON THIS PRETTY HEAVILY. WHO'S WORKING ON  
8 IT NOW IF DARREL'S NOT?  
9 MR. WOCHNICH: IT WOULD BE MYSELF, AND  
10 GLEN YOUNG, AND MY STAFF.  
11          MEMBER JONES: OKAY. AND SENATOR  
12 ROBERTI, YOU DON'T HAVE TO DO IT NOW, BUT HAVE  
13 YOU BRIEFED HIM ON THIS? OR I CAN BRIEF HIM ON  
14 IT LATER, OR WHATEVER. I DON'T KNOW IF ANYBODY'S  
15 TALKED ABOUT THIS PROJECT.  
16 MR. WOCHNICH: YES.  
17          MEMBER ROBERTI: YES, I HAVE BEEN I  
18 THINK.  
19 MR. WOCHNICH: YEAH, IN YESTERDAY'S  
20 BRIEFING WE DID BRIEF HIM.  
21          MEMBER JONES: OKAY. I JUST WANTED TO  
22 MAKE SURE THAT -- BECAUSE THIS IS HUGE FOR THE  
23 STATE OF CALIFORNIA, AND HOW WE -- IF THE  
24 INFORMATION'S RIGHT, HOW WE'RE GOING TO CLOSE  
25 LANDFILLS, SAVE A LOT OF MONEY, AND GET SOME



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1 TREES WITH ROOT SYSTEMS A LITTLE LONGER THAN 18  
2 INCHES.

3 SO I WILL MOVE --

4 MEMBER PENNINGTON: I HAVE A QUESTION.

5 CHAIRMAN EATON: YES, MR. PENNINGTON.

6 MEMBER PENNINGTON: I JUST WONDERED, ARE  
7 THERE INDUSTRY PEOPLE INVOLVED WITH THIS DRI  
8 GROUP?

9 MR. WOCHNICH: IT'S SUPPOSED TO BE BOTH  
10 INDUSTRY, ACADEMICS, AND REGULATORS.

11 MEMBER PENNINGTON: AND YOU HAVE ALL OF  
12 THEM INVOLVED IN IT ALREADY, OR...?

13 MR. WOCHNICH: THEY'RE WORKING ON -- THE  
14 DESERT RESEARCH INSTITUTE IS THE ONE DOING THE  
15 PROJECT, AND THEY'RE TRYING TO GET INDUSTRY  
16 INVOLVED, ESSENTIALLY TO BUILD THESE --

17 MEMBER PENNINGTON: OKAY.

18 MR. WOCHNICH: -- FACILITIES THAT WOULD  
19 THEN BE USED -- WOULD THEN BE STUDIED.

20 MEMBER PENNINGTON: OKAY. VERY GOOD,  
21 THANK YOU.

22 GO AHEAD, MR. JONES.

23 MEMBER JONES: MR. CHAIRMAN?

24 CHAIRMAN EATON: YES, SIR, MR. JONES.

25 MEMBER JONES: JUST SO EVERYBODY KNOWS,

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1 THE NEW HEAD OF THE AIR BOARD, I THINK IT IS,  
2 COMES FROM THE DESERT RESEARCH INSTITUTE, WHICH  
3 IS DOING THIS WORK RIGHT NOW.  
4 SO I WILL MOVE RESOLUTION 1999-52.  
5 MEMBER PENNINGTON: SECOND.  
6 CHAIRMAN EATON: ALL RIGHTY. MR. JONES  
7 MOVES, MR. PENNINGTON SECONDS, THAT WE ADOPT THE  
8 RESOLUTION APPROVING THE SCOPE OF WORK AND AWARD  
9 OF CONTRACT TO DESERT RESEARCH INSTITUTE FOR  
10 RESEARCH PROJECT AND ALTERNATIVE ENGINEERED  
11 EARTHEN FINAL COVER SYSTEMS.  
12 WITHOUT OBJECTION, I'LL SUBSTITUTE  
13 THE PREVIOUS ROLL CALL. HEARING NONE, SO  
14 ORDERED.  
15 WE WILL CONTINUE ITEM 18, AND 19, AND  
16 20 UNTIL TOMORROW. AND THE FINAL ITEM -- AS WELL  
17 AS ITEM 27 FOR TOMORROW. THE FINAL ITEM THAT WE  
18 WILL HEAR THIS EVENING IS ITEM NO. 25.  
19 AGENDA ITEM NO. 25: CONSIDERATION OF STAFF  
20 RECOMMENDATION ON THE BIENNIAL REVIEW FINDINGS  
21 FOR THE SOURCE REDUCTION AND RECYCLING ELEMENT  
22 FOR THE FOLLOWING JURISDICTIONS  
23 CHAIRMAN EATON: YOU SHOULD ALSO KNOW  
24 THAT ITEM 25, REGARDING SUBPART C, SACRAMENTO  
25 COUNTY AND SACRAMENTO COUNTY UNINCORPORATED, A

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1 PROBLEM DID ARISE AND THEY HAD TO BE SEPARATED  
2 OUT, SO THERE WILL BE TWO RESOLUTIONS AS IT  
3 RELATES TO THIS ITEM 25. THEY SHOULD BE IN THE  
4 BACK OF YOUR PACKET IN THE ITEM. OKAY, THANK  
5 YOU.  
6 MS. CARDOZO: I BELIEVE IT'S STILL  
7 AFTERNOON. GOOD AFTERNOON, CHAIRMAN EATON AND  
8 BOARD MEMBERS. I'M CATHERINE CARDOZO WITH THE  
9 BOARD'S OFFICE OF LOCAL ASSISTANCE, CENTRAL  
10 SECTION, IN THE DIVERSION PLANNING AND LOCAL  
11 ASSISTANCE DIVISION.  
12 TODAY I'M PRESENTING ITEM 25, THE  
13 BIENNIAL REVIEW RESULTS FOR SIX JURISDICTIONS  
14 FROM SIX COUNTIES. HOWEVER, AS CHAIRMAN EATON  
15 POINTED OUT, THERE WILL ONLY BE FIVE ACTUALLY IN  
16 THIS ITEM BECAUSE ONE, SACRAMENTO COUNTY, IS  
17 ACTUALLY IN TIER ONE GROUP OF BIENNIAL REVIEWS  
18 BECAUSE OF ADDITIONAL INFORMATION WE HAD. AND SO  
19 THERE WILL BE A SEPARATE RESOLUTION FOR  
20 SACRAMENTO UNINCORPORATED.  
21 STAFF REVIEW INDICATES FOR THE  
22 REMAINING FIVE JURISDICTIONS THAT, ALTHOUGH THEY  
23 WERE BELOW THE 25 PERCENT GOAL IN EITHER '95,  
24 '96, OR BOTH YEARS, THEY ARE MAKING A GOOD-FAITH  
25 EFFORT TO IMPLEMENT DIVERSION PROGRAMS, OR THEY -

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1 - AND THEY ARE ALSO CONTINUING TO ADD DIVERSION  
2 PROGRAMS THAT MAY NOT HAVE BEEN ON LINE IN EITHER  
3 OF THOSE YEARS.  
4 THOSE FIVE JURISDICTIONS ARE PLEASANT  
5 HILL, IN CONTRA COSTA COUNTY; IRVINE, IN ORANGE  
6 COUNTY; SAN BERNARDINO, IN SAN BERNARDINO COUNTY;  
7 FAIRFIELD, IN SOLANO COUNTY; AND MODESTO, IN  
8 STANISLAUS COUNTY.  
9 AND I BELIEVE THERE WERE TWO  
10 REPRESENTATIVES HERE EARLIER TODAY, THEY BOTH HAD  
11 TO RETURN HOME. SO THERE ARE NO LOCAL PEOPLE  
12 HERE TO ADDRESS THIS ISSUE.  
13 THAT CONCLUDES MY PRESENTATION.

14 CHAIRMAN EATON: WOULD YOU EXTEND THE  
15 BOARD'S APPRECIATION FOR HAVING THEM SIT THROUGH  
16 A LONG -- AND APOLOGIZE THAT THEY DIDN'T GET AN  
17 OPPORTUNITY, BUT IT WAS DULY NOTED?  
18 ANY QUESTIONS OR COMMENTS WITH REGARD  
19 TO THE FIRST FIVE?

20 MEMBER PENNINGTON: MR. CHAIRMAN?

21 CHAIRMAN EATON: YES, MR. PENNINGTON.

22 MEMBER PENNINGTON: I'LL MOVE ADOPTION OF  
23 RESOLUTION 1999-104 —

24 CHAIRMAN EATON: I THINK 60, THERE'S TWO.

25 MEMBER PENNINGTON: I'M SORRY.

Please note: These transcripts are not individually approved and reviewed for accuracy.

1 CHAIRMAN EATON: THAT'S THE ONE WE HAD  
2 THAT TIER ONE PROBLEM --  
3 MEMBER PENNINGTON: RIGHT. RIGHT, 1999-  
4 60.  
5 CHAIRMAN EATON: YEAH, 60. OKAY.  
6 DO I HAVE A SECOND?  
7 MEMBER JONES: I'LL SECOND IT.  
8 CHAIRMAN EATON: ALL RIGHTY. MR.  
9 PENNINGTON MOVES, AND MR. JONES SECONDS, THAT WE  
10 ADOPT RESOLUTION 1999-60.  
11 WITHOUT OBJECTION, I'LL SUBSTITUTE  
12 THE PREVIOUS ROLL CALL FOR THE PREVIOUS ITEM.  
13 HEARING NO OBJECTION, SO ORDERED.  
14 MEMBER PENNINGTON: MR. CHAIRMAN?  
15 CHAIRMAN EATON: YES, MR. PENNINGTON?  
16 MEMBER PENNINGTON: I'LL MOVE ADOPTION OF  
17 RESOLUTION 1999-104.  
18 CHAIRMAN EATON: ALL RIGHTY.  
19 MEMBER JONES: I'LL SECOND.  
20 CHAIRMAN EATON: ALL RIGHTY. MR.  
21 PENNINGTON MOVES, AND MR. JONES SECONDS, WE ADOPT  
22 RESOLUTION 1999-104.  
23 HEARING NO OBJECTION, WE'LL  
24 SUBSTITUTE THE PREVIOUS ROLL CALL VOTE. HEARING  
25 NONE, SO ORDERED.

Please note: These transcripts are not individually approved and reviewed for accuracy.

1 THANK YOU ALL VERY MUCH FOR A LONG,  
2 LONG DAY. THAT WILL COMPLETE THIS PORTION OF THE  
3 AGENDA. WE WILL RECESS THE BOARD MEETING UNTIL  
4 10:00 A.M. TOMORROW MORNING, AT WHICH TIME WE'LL  
5 TAKE UP THE REMAINING ITEMS, WHICH I BELIEVE  
6 THERE ARE FOUR. THANK YOU.

CERTIFICATE OF REPORTER

I, DONNA L. ARCHULETA, authorized to administer oaths pursuant to Section 8211 of the California Code of Civil Procedure, do hereby certify;

That the proceeding was reported by me and was thereafter transcribed by computer under my direction into typewriting.

I further certify that I am not of counsel or attorney for either or any of the parties in the foregoing proceeding and caption named, nor in any way interested in the outcome of the cause named in said caption.

Executed March 16, 1999, at Sacramento, California.

A handwritten signature in dark ink, appearing to read 'D Archuleta', is written over a horizontal line.

DONNA L. ARCHULETA

CSR No. 11828